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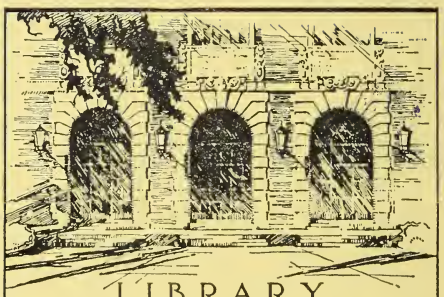

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FIFTH SERIES

VOLUME 17

LONDON
OFFICES OF THE ROYAL HISTORICAL SOCIETY
UNIVERSITY COLLEGE LONDON, GOWER STREET, W.C.1
1967

Made and Printed in Great Britain by Butler & Tanner Ltd, Frome and London

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TRANSACTIONS OF THE
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PROBLEMS IN THE INTERPRETATION AND REVISION OF EIGHTEENTH-CENTURY IRISH ECONOMIC HISTORY

By L. M. Cullen, M.A., Ph.D.

READ 8 JANUARY 1966

THE economic history of Ireland in the late seventeenth and eighteenth centuries unfolded in an age marked by considerable legislative interference by the British parliament in Irish affairs. The impact of this interference was all the greater because the executive in Dublin was, from the point of view of an Irish colonial nationalist, constitutionally irresponsible, answerable to the king's ministers in London rather than to the Irish legislature. It is not surprising that against this background colonial nationalism emerged at an early date. The interpretation of economic issues fell inevitably under the shadow of constitutional controversy and rising colonial nationalism. In the eyes of contemporaries and subsequent Irish historians who have borrowed largely both their facts and interpretation of events from the writings of the period, economic development was subsidiary to political issues; not only subsidiary but its achievement or negation a product of policy. Contemporaries in Ireland argued in effect from two postulates, firstly, that Ireland was on the evidence before them an economically depressed country, and secondly, that this depression was a consequence of certain aspects of British policy, more especially those aspects which were reprehensible in the light of the exalted constitutional pretensions of Irish colonial nationalists. They indeed saw the Irish parliament as rightfully the equal under a common sovereign of the imperial parliament in Westminster. The second premise is the fundamental one in this chain of eighteenth-century argumentation. Economic ill-effects were as a matter of course polemically attributed to constitutionally objectionable legislative measures. The empha-

sis placed by contemporaries on their alleged ill-effects is due primarily not so much to the existence of depression or to economic consequences actually achieved by the measures themselves as to the need to reinforce by economic considerations and by an appeal to economic interests within the country what was essentially a constitutional case against outside legislative interference and the excessive weight of the executive within the balance of power in Irish government.

Strikingly, the event singled out as the one most productive of economic loss was a measure whose economic consequences examination reveals as limited—the woollen act of 1699 by which the English parliament prohibited the export of woollen cloth from Ireland.[1] Measures whose economic impact on Ireland was more serious—the cattle acts of the 1660s and the navigation acts of the same and subsequent decades—were passed over in silence or with minor comment by many of the Irish writers of the eighteenth century. The reason was that the woollen act of 1699 was regarded as a flagrant example of the pretensions of the British parliament to legislate for Ireland.[2] The other measures though not devoid of constitutional undertones did not of themselves raise the issue of the proper role of the Irish parliament in Anglo-Irish constitutional relations.[3] It is noteworthy moreover that to the immediate contemporaries of its enactment the act of 1699 did not appear as a measure having far-reaching

[1] 10 and 11 William III, c. 10. The act did not prohibit exports of frieze of declining importance) or of woollens generally to England (where the tariff was already effectively prohibitive).

[2] The fact that it was the controversy over the Irish woollen industry leading up to the act of 1699 that gave birth to Molyneux's book *The case of Ireland stated* (1698) helped to keep the measure fresh in Irish memories because of its association with the work which underlay Irish constitutional thinking of the eighteenth century.

[3] The cattle acts stemmed from England's right to regulate her imports and the navigation acts from her right to regulate trade with her colonies. Although they did not therefore directly raise the issue of the constitutional rights of the English parliament over the Irish, they of course implied the duty of the Irish executive to discountenance actions which would violate them. After the enactment of the cattle acts some evasion of them for a while enjoyed a measure of tolerance on the part of the Irish executive (J. O'Donovan, *Economic history of livestock in Ireland* (Cork, 1940), p. 60). There is also evidence of some official laxity in the observance of the navigation acts in Ireland during the Restoration period.

economic consequences. Such consequences were attributed to the act only in the 1720s, after the culmination of the protracted Annesley case in 1720 in the so-called *Sixth of George the First*,[1] affirming the inferior position of the Irish legislature, and the opposition to the Irish executive in the early 1720s in the controversy over Wood's half-pence, had stirred national feeling to a high pitch. The fact that the constitutional agitation of the 1720s coincided with a decade of economic difficulties lent force to what was a new and original interpretation of the economic consequences of the woollen act.[2] Historians have not only been misled to the extent of accepting the interpretation offered in the 1720s,[3] but through accepting it have found themselves at a loss to explain why the passing of the act did not on economic grounds give rise to serious misgivings or opposition at the time. The lack of widespread concern is all the more striking in view of the fact that what opposition to the act did occur was based largely on religious grounds. Bishop King of Derry was, for instance, opposed to the measure because it affected mainly

[1] 6 Geo. I, c. 5.

[2] It is worth noting that King's views were much more extreme in the 1720s than they had been twenty years previously. See for an expression of his views in the 1720s a letter from 1723 in C. S. King, *A great archbishop of Dublin, William King, D.D., 1650–1729* (London, 1906), p. 242.

[3] This new interpretation has been accepted by modern Irish historians. They were also powerfully influenced by the Rev. William Cunningham's 'The repression of the woollen manufacture in Ireland', *English historical review*, i (1886). While this article, in some respects remarkably judicious for the time, sought to minimize the injustice and the effect of the woollen act at the time of its passing, Cunningham's own conclusion that 'there was little if any positive injury done to the native Irish, though a hindrance was imposed on their subsequent progress' (p. 293) seemed to imply that the long-term consequences of the act were more serious and simply reinforced from an independent point of view the polemical interpretation which has developed in Ireland of the act's significance. Among more modern historians, Sir George Clark, who doubted that the act had the significance attributed to it (*The later Stuarts, 1660–1714*, 2nd ed. (1955), pp. 317–19) and J. Johnston, who while accepting the established view about the crippling effects of English commercial policy saw that depression did not immediately follow from the passing of the act ('Commercial restriction and monetary deflation in eighteenth-century Ireland' *Hermathena*, liii (1939)), are alone in questioning the established version of the act's consequences. Richard Pares also accepted Clark's view in 'The economic factors in the history of the empire' (reprinted in *Essays in economic history*, ed. E. M. Carus-Wilson, i, p. 419n).

members of the Church of Ireland, whose supremacy he regarded as threatened by the growing number of dissenters in the island.[1] In these circumstances it has been suggested that within Ireland the act may have been welcomed by many because of tensions created by enclosure for expanding sheep pasturage.[2] There is no evidence of this. In any event as the foreign market for Irish woollen cloth (which accounted for only 10 per cent of the value of Irish exports) consumed only a small proportion of the Irish wool clip, there was no reason to view the measure as one likely to imperil incomes at large. As wool prices after a set back in 1696 had soared on an expansive English market, the landed classes had no grounds to expect that the act would have an adverse effect on wool prices or on rents. Their assessment of the situation was borne out by events. Neither prices of wool nor rents fell. When depression finally set in, it was with a lag of two years and was seen by contemporaries primarily as a consequence of the currency revaluation of June 1701 and of a loss of foreign markets consequent on the outbreak of war in 1702. To contemporaries the woollen act of 1699 appeared simply as one and in no way as a special factor contributing to the depression which prevailed with little recovery in the remainder of the first decade of the century.[3]

However, at twenty years' remove, it was easy to view things differently and to attribute the low prices which prevailed throughout the period, except for a temporary recovery in the course of the second decade affecting grain, beef and butter successively, to the impact of the woollen act of 1699. The fact that colonial nationalism which was feeble in 1699 was intense at this time made inevitable this new interpretation of the consequences of the act. The close relationship between national feeling and the level of economic activity is evidenced also by the fact that in

[1] C. S. King, *op. cit.*, p. 35n.; H. F. Kearney, 'The political background to English mercantilism, 1695–1700', *Economic history review*, 2nd series, xi (1959), pp. 492–93.

[2] Kearney, *loc. cit.*, p. 496.

[3] John Cary, *Some considerations relating to the carrying on the linnen manufacture in the kingdom of Ireland by a joint-stock* (London, 1704), pp. 6–7. Bishop King of Derry (later archbishop of Dublin) himself viewed the act simply as one of several causes contributing to the depressed condition of Ireland in the early eighteenth century (letter by King in March 1702 quoted in Johnston, *loc. cit.*, pp. 86–87).

the even more politically excited 1770s the arguments used in the 1720s had a new lease of life and were set in the framework of a more all-embracing synthesis. In addition to the 1699 act several other British statutes legislating for Irish industry, which at the time of their enactment had aroused little if any active resentment on economic grounds, were represented not simply as constitutional injustices but as a source of real material loss.[1] In both periods it is the coincidence of economic depression of more than usual severity and of a heightened national feeling which produced a forced interpretation of economic events.

The shadow of controversy has thus coloured Irish economic history heavily, not simply in matters of interpretation, but in the selection of the facts, which are the subject for economic interpretation. While recent Irish historians have refreshingly tended to discount the efficacy of policy as the decisive or exclusive factor in determining the course of events, they have continued to accept the factual picture of poverty, depression and stagnation in the same broad lines as contemporary writers and earlier historians saw it. Historians of the Irish scene have continued to assume that poverty was as extreme and as widespread as contemporary and near-contemporary witnesses described it, and that depression prevailed secularly and not simply at points of time within the century. They have differed mainly from earlier writers in attributing poverty and depression to economic and social factors, such as population pressures in the case of Connell,[2] or more recently in the case of Lynch and Vaizey[3] the absence of a market economy, rather than to the effects of British policy. The depth, extent and unrelieved nature of poverty remained unquestioned.

[1] Notably the British statutes of 1710 prohibiting the import of hops to Ireland from any country other than Great Britain (9 Anne, c. 12), 1746 prohibiting the export of Irish glass (19 Geo. II, c. 12). There are a number of other instances, although in many cases their significance is technical rather than general. The view that British policy was responsible for Irish economic difficulties reached its extreme presentation in Sir James Caldwell's *An enquiry how far the restrictions laid upon the trade of Ireland by British acts of parliament are beneficial or disadvantageous to the British dominions in general* (Dublin, 1779), and J. Hely Hutchinson's *Commercial restraints of Ireland considered* (Dublin, 1779).

[2] K. H. Connell, *The population of Ireland, 1750–1845* (Oxford, 1950).

[3] P. Lynch and J. Vaizey, *Guinness's brewery in the Irish economy, 1759–1876* (Cambridge, 1960).

It is at first sight surprising that so little headway has been made in Irish economic history, all the more so as the interest of the Irish in their past has through force of political events been consuming and indeed morbid. The reason lies in the fact that interest in Irish economic history was in the early twentieth century closely associated with the growing political unrest of the time. With the uneasy compromise solution of the Irish question in 1921 interest in Irish economic development under British sovereignty waned rapidly. It is significant that most of the general works on Irish economic history appeared at the peak of the political struggle between the two countries in 1918–21.[1] No general work has appeared since, and if we except Gill's *Rise of the Irish linen industry* (1925), Connell's *Population of Ireland, 1750–1845* (1950) and Green's *Lagan Valley* (1949), monographs embodying detailed research and a scholarly approach have been no less deficient.[2] As a result Irish economic history has advanced little out of the state of generalization and elementary handling of printed sources represented by the general works, which appeared in an unfavourable intellectual climate and at an early stage in the evolution of modern economic history.[3] The

[1] G. Sigerson, *Last independent parliament of Ireland* (Dublin, 1918); D.A. Chart, *Economic history of Ireland* (Dublin, 1920); J. F. Burke, *Outlines of the industrial history of Ireland* (Dublin, 1920); E. J. Riordan, *Modern Irish trade and industry* (London, 1920); G. O'Brien, *Economic history of Ireland*, 3 vols. (Dublin, 1918, 1919; London, 1921). Chart, a genuine historian detached from much of the emotional feeling of the time, himself wrote his work 'in view of the daily increasing importance of the subject' (Preface, p. vii), and was influenced by contemporary attitudes towards the interpretation of Irish economic history in the choice of his premises, which though less extremely stated are not essentially different from those of other writers.

[2] Green's *Industrial archaeology of county Down* (Belfast, 1963) should also be noted as the introduction of a new dimension in the study of Irish economic history.

[3] A statement in A. E. Murray's *History of the commercial and financial relations between England and Ireland* (London, 1903), p. 50, that 'for the next three-quarters of a century the history of Ireland was to be little more than a history of religious persecution, political corruption and commercial and industrial restrictions' may be regarded not unfairly as representative of the attitudes which characterized the approach to Irish economic and general history at this time. In recent writing much of the old attitude has been abandoned, and the conflict between the accepted picture of the general history of Ireland and its realities, less harsh and less extreme, brought out.

poverty of research in Irish economic history (and the paucity of the articles appearing on the subject in the learned reviews confirms that little new work is in gestation) is in part due to a discouragingly persistent belief that the loss of most of the administrative records makes progress difficult and often impossible. This view is excessively pessimistic, and, overlooking the fact that the value of administrative records to the economic historians is limited, continues in a more subtle fashion to commit the sin of seeing economic development as an adjunct of public policy.

The acceptance of the facts described by contemporaries, even without the interpretation they offered, has resulted in a model of economic development of intense simplicity, based on a small number of general premises. Even when the interpretation offered by contemporaries has been rejected, the facts on which their rejected interpretation was professedly based have continued to underpin the now somewhat scant and thread-bare fabric of Irish economic history. Paradoxically, in the recent account by Lynch and Vaizey, whose interpretative approach has been commented on favourably by reviewers, the dubious facts of Irish economic history have been stated in a far more extreme fashion than they have been either in the works of earlier writers or of contemporaries themselves. The premises underlying this picture of the Irish economy, which show signs of an alarming ability to outlive the discredited interpretation of Irish history that gave birth to them, are four. In logical order they are: (i) the economy was depressed; (ii) depression was far from being simply a manifestation of conditions in the trough of cyclical or recurrent fluctuations in economic activity: fluctuations are held not to have had significance in the Irish economy; (iii) the land system accentuated existing tendencies towards poverty and depression; (iv) as a result of poverty, depression, a bad land system and consequent

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For a very important revision of opinion on the penal laws and their impact, see M. Wall, 'The rise of a catholic middle class in eighteenth-century Ireland', *Irish historical studies*, xi, no. 42 (1958); and *The Penal laws, 1691–1760* (Dublin Historical Association, 1961). For a fresh approach in the political field to tenant-landlord relations, see J. H. Whyte, 'Landlord influence at elections in Ireland, 1760–1885', *English historical review*, lxxx (October 1965).

narrow internal markets, the economy was largely a subsistence one.

As a first step it is necessary to look at these premises in greater detail. The basic premise is the first. Depression is unrealistic in the severity with which it is painted. O'Brien, the most representative historian of the old school, stated flatly that 'the condition of Ireland all through the century was going from bad to worse'.[1] Recently, Lynch and Vaizey stated that 'the most that could be said of the Irish rural economy was that its members grew no poorer'.[2] If the first premise, one of general long-term depression appears debatable, the second one suggesting that depression was neither cyclical nor recurrent but constant is even more fundamentally unreasonable. To accept it one would have to assume that a given distribution of income was undisturbed by changes in relative prices and by time lags and that incomes at large were insulated from the consequences of rises and falls in the level of foreign demand. O'Brien stated categorically that 'the first eighty years of the latter [eighteenth] century was a time of uninterrupted industrial depression'.[3] Naïve though this view is, it has if anything been reinforced by the more recent argument of Lynch and Vaizey, which maintains that through the alleged smallness of the internal market economy the country was insulated from credit crises.[4] This view of the insulation of the economy from crisis through the smallness of the market economy fits in badly with the known existence of banking failures. This difficulty is dismissed however by asserting that banking failures were endemic[5] and thus could be excluded as features symptomatic of intermittent forces leading to contraction in economic

[1] O'Brien, *Economic history of Ireland in the eighteenth century* (Dublin, 1918), p. 223. Murray's view is no less unrealistic: 'for fifty years after the Irish and English woollen acts of 1698 and 1699 the poverty of Ireland was extreme' (*op. cit.*, p. 70).

[2] Lynch and Vaizey, *op. cit.*, p. 13.

[3] O'Brien in 'Historical introduction' to E. J. Riordan, *Modern Irish trade and industry* (London, 1920), p. 7.

[4] Lynch and Vaizey, *op. cit.*, p. 26.

[5] The view that banking failures were endemic was reinforced by the description of the eighteenth-century background in Hall's *History of the Bank of Ireland* (Dublin and Oxford, 1949). The view has been repeated in recent works by H. W. Robinson, *A history of accountants in Ireland* (Dublin, 1964), pp. 42, 60; and K. Milne, *A history of the Royal Bank of Ireland Limited* (Dublin, 1964), pp. 18–20.

activity. If, such writers concede, banking was relatively stable after 1783, this was due to the presence of a new institutional factor in the form of the Bank of Ireland.[1]

These two premises are said to have been reinforced in their impact by the third one—a bad land system. In fact in some ways the land system had been regarded as the decisive element in determining the direction of events in Ireland. Industrial progress in Ulster has been attributed to better rural conditions there than elsewhere.[2] Landed relations in the rest of Ireland have been considered as chronically bad, and in the north better only to a degree. Not only were tenant-landlord relations said to be poisoned by political, racial and religious animosities, but uncertainty of tenure, high rents, absenteeism and the presence of middlemen are regarded as essential features of the system. Two factors, conducive to rent maximization and to the transfer of any surplus in excess of subsistence needs to the landlord, are said to have been present throughout the century. The first factor is acute competition for land. This could of course arise only in conditions of population pressure. Dr Connell, who has studied population at length, maintains that, while such pressure was most evident

[1] Lynch and Vaizey, *op. cit.*, p. 24.

[2] O'Brien in Riordan, *op. cit.*, p. 50. It was also Gill's view in the *Rise of the Irish linen industry* (Oxford, 1925), pp. 23–27, that tenant right was a very important factor in accounting for the localization of the industry in Ulster. The existence and definition of tenant right in the eighteenth century are however matters about which little is known. References to it for this period are based on the assumption that what existed in the nineteenth century also existed in the previous century. What is sometimes described as tenant right by later writers referring to this period was simply the right of a tenant to sell his interest in a lease. But this practice was country-wide and not confined to Ulster. It is of course possible that because emigration from the north was more frequent than from the rest of the country in this period the selling of a tenant's interest in a lease was more common there than elsewhere and that as a result more clearly defined practices and rules grew around it. But this would itself make necessary a new attitude towards the existence and role of tenant right. Emigration, for instance, would not have been a factor which was as historians have maintained financed in part by the sale of tenant right so much as a factor which brought tenant right into existence. On the Abercorn estates 'tenant right' simply meant the rights as tenant acquired by the purchase of the interest of a lease (P.R.O., Belfast, Calendar of Abercorn Papers). Novel only was the fact that tenants could apparently bequeath or leave their interest in the *remaining years of a lease* to their families.

in the latter half of the century, it was already present in the early decades of the century.[1] The second factor is a swing from tillage to pasture, which is held to have made the pressure of population on resources all the more severe despite the fact that population was growing relatively slowly during the first half of the century. The area of land used to supply subsistence needs was reduced, and competition for it as a result sharpened.[2] Competition for land in conditions of population pressure and a swing from tillage to pasture during the first six decades of the century are seen as the factors which produced a growing rent surplus. This surplus is said to have been all the greater by virtue of the fact that leases were uncommon or, where they existed, were of short duration. It is not surprising that historians, accepting these premises, have assumed that no profit remained for the occupier of the soil, and that output in excess of subsistence requirements was transferred to the landlord or middleman. O'Brien claimed that 'the reason that Ireland was as poor in 1839 as in 1739 was that the landlords took the whole surplus of the wealth produced in both years'.[3] Historians have still scarcely advanced beyond this point. According to Connell, a profit motive did not exist for Irish peasants, and their actions were determined primarily by rent pressures.[4]

The fourth premise—the prevalence of a subsistence economy—flows from the others. This one has been expressed much more extremely of late. Writing of rural Ireland, Lynch and Vaizey state that 'this was a society without a market'.[5] The sharp distinction they make between a money economy in the towns, especially the maritime towns, and a subsistence economy in a much larger rural hinterland is unrealistic. The view can be maintained only by an exaggerated emphasis on the depressive factors held to have been present in the economy. It also offers an excessively simple reason as to why in the long run Irish economic development was inadequate. To Lynch and Vaizey 'the insufficiency of

[1] Connell, *op. cit.*, p. 159.

[2] This has been the argument of Irish writers dealing with the eighteenth century. The argument is sometimes expressed somewhat differently in the form of increased competition for employment outlets, said to have been diminished by the swing from tillage (*e.g.* O'Brien in Riordan, *op. cit.*, pp.8–9).

[3] O'Brien, *Economic history of Ireland from the union to the famine* (London, 1921), p. 109.

[4] Connell, *op. cit.*, pp. 100, 244. [5] Lynch and Vaizey, *op. cit.*, p. 12.

economic growth must be attributed to a lack of profitable opportunities to invest in Ireland arising from the absence of a market'.[1]

These four premises, unrealistic in the extremeness with which they are presented and tattered because they do not square well with a large mass of historical evidence, are the basis for an interpretation of Irish economic development on Malthusian lines. Population will multiply up to the limit set by food resources, and as the potato economizes the acreage necessary for the sustenance of a single family a potato-eating community will necessarily multiply with greater rapidity. The process of multiplication was all the more effective because with no hope of betterment no incentive existed to defer marriage. In fact marriage was positively attractive, because it offered solace. People therefore aspired to marry young, and when the general acceptance of the potato made possible the sub-division of existing holdings the marriage age dropped significantly.[2] The advantage of a Malthusian explanation is that it accounts for the obvious contradiction between on the one hand allegations of misery and on the other hand the abundant evidence of a growing aggregate income and rapidly expanding infrastructure. Its defects are that, apart altogether from the limitations of a Malthusian approach, it is no better than its dubious premises.

The first premise, general depression, is not tenable in the light of a closer examination of historical evidence. There was in fact a secular expansion of striking force for the greater part of the eighteenth century. Admittedly, the economy was depressed in the first three decades of the century. But this depression flowed not from the woollen act of 1699, but from the low prices for agricultural commodities in this period. This trend was reversed at the end of the first quarter of the century for beef, later for butter and later still for grain. The beginning of a secular upsurge in agricultural prices was accompanied by a powerful advance of the linen industry. Despite rapid growth in the course of the first three decades the linen industry was still in the 1720s of too small an extent to offset the generally unfavourable outlook for agricultural products. But between the 1720s and the 1770s the exports of linen increased five-fold, and doubled again to their peak in the 1790s. Expansion was general and pervasive in the

[1] Lynch and Vaizey, *op. cit.*, p. 16.

[2] This is broadly the argument of Connell's standard work on the subject.

economy, not confined to the agricultural sector and to the linen industry, itself except in its finishing processes a domestic industry. There is no evidence that industry was depressed or that banking exerted an adverse effect on development. The contrast which Irish historians have made between conditions before and after 1782 is artificial. The extreme expression of this point of view is O'Brien's, contrasting industrial recovery under Grattan's parliament after 1782 with decline before that. By 1780 Irish industries, according to O'Brien, 'had sunk to their lowest ebb', and reconstruction during the period of Grattan's parliament was based on hardly any foundation.[1] This view is quite misleading. Even the woollen industry expanded in the eighteenth century. The wholesale migration of woollen workers after 1699 referred to by writers of the 1720s and later did not in fact take place. A number of Irish workers were recruited for the Spanish industry, but this recruitment took place well after 1699 and as a result of the initiative of the Spanish authorities.[2] If anything the recruitment points to a relatively satisfactory state of technology in part at least of the Irish industry rather than to stagnation or decay in the industry. In the study of Irish industry in the eighteenth century, it is essential to distinguish between industrial activity as a whole and the experiences of individual industries, some of which declined. Within the declining industries themselves decay was largely independent of policy factors, even where such factors existed. Decline in the glass industry and in brewing in the middle decades of the century was largely due to organizational changes in the direction of larger units and a wider application of the division of labour, which gave an advantage initially to the more receptive English businesses. In glass the evidence can be fairly viewed as suggesting that the Irish industry through adapting itself to the changes with the help of English personnel and capital was gaining lost ground before 1780. If the difficulties of industry have been greatly exaggerated by dwelling on the real or imagined circumstances of particular industries, or on the problems of

[1] O'Brien in Riordan, *op. cit.*, pp. 36–37.

[2] J. Clayburn La Force, Jr., *The development of the Spanish textile industry, 1750–1800* (Berkeley and Los Angeles, 1965), pp. 31, 70, 73, 74–75 n. There is no evidence of emigration by Irish weavers after the 1699 act to France, said by Irish writers to have received thousands. There is only isolated evidence of the existence of a few Irish entrepreneurs in French textiles and at a later stage of the century.

years of crisis, it is clear that the case for a jump-forward in industry after 1780 is greatly weakened. Industrial output grew in the 1780s and 1790s but it was largely on the basis of organizational changes that were already taking place before 1780 or of technical changes as in cotton which were quite independent of legislative measures. The growth of incomes, which one can infer from the sharp rise in the 1780s in the already swollen volume of exports, contributed to a general rise in the demand for manufactures. Even where the benefit was retained in the form of profits or rents, it sustained an expanding market for luxury and quality goods, reflected in home output no less than in rising imports.

The second premise—that depression was not significantly interrupted by cyclical or recurrent intermission—is no less unacceptable. The view of unremitting depression is in large measure due to the acceptance of the facts of contemporary writers. There is a close correlation between the chronological appearance of contemporary writings and periods of depression.[1] The tendentious representation of the facts by contemporary writers is all the greater because the most influential writing stems from the 1720s and the 1770s, when the coincidence of economic difficulties and rising national consciousness necessarily made contemporaries the more prone to paint a dark picture of the conditions in which English policy left Ireland. The economic difficulties of these periods were not however peculiar to Ireland. This is particularly true of the 1770s, a period in which political feeling and the example of the North American colonies resulted in a much more extreme expression of the economic consequences of English policy than in the 1720s. The recurrence of economic difficulties in Ireland in this decade was closely paralleled in England. Bad harvests in the early years and weak commodity markets in 1772–73 and again in 1777–78 were common to both countries. In England the death rate may have risen. In Ireland rents on new leases in many instances fell. The English economy itself suffered from difficulties of the sort which in Ireland were attributed to English policy. Irish banking crises are closely tied up with the intermittent commercial crises—a consideration which serves to underline the fact that in intervening years Irish banking

[1] L. M. Cullen, 'The value of contemporary printed sources for Irish economic history in the eighteenth century', *Irish historical studies*, xiv, no. 54 (September 1964), pp. 152–53.

prospered by comparison and that the financial structure was more elaborate, more extensive and more sensitive than writers on Irish history have allowed. Banking crises are concentrated on years of commercial difficulty—the 1720s, 1745, 1754–55, 1759–60, 1767, 1770–71, 1772–73, 1777–78. Before 1782 there appear in fact to have been only two banking failures falling outside these years. One factor lies behind the banking crises and the periods of commercial difficulty in which they occur—they coincide with a significant drop in the trade balance. This adverse move in the trade balance is itself more especially tied up with the state of the harvest and the grain trade. Only in two periods, 1759–60 and 1778, can the reduced balance be divorced from the harvests and the grain trade. In fact the outcome of the harvest was so important that through concentrated imports once the inadequate harvest was consumed a banking crisis could develop, as in the course of the first half of 1767, although on an annual basis there had been no deterioration in the trade balance. The importance of the harvest outcome in determining the onset of crisis emphasizes that Irish credit crises were not simply a consequence of crises in England, but had a timing and nature which was often their own. In the South Sea Bubble panic the Irish financial world escaped from the direct consequences of the crisis, in 1745 the Irish crisis was brought on by harvest failure which would have been as disastrous as those of 1739–40 but for an unprecedented level of grain imports, and the crises of 1754 and 1755 had no parallel in London. The fact that crises in Irish banking can with few exceptions be clearly related to wider financial and economic difficulties suggests that Irish banking was a good deal less infirm than Irish historians have been prepared to admit and that the distinction made between Irish banking before and after 1783, the year of the opening of the Bank of Ireland, is largely an artificial one.[1] The 1780s with their expansion of trade and output were favourable to banking; the Bank of Ireland gained no less than other banks from this. Even with the advent of the Bank of Ireland the total note circulation can scarcely have expanded more rapidly than trade. The reason was that bank notes were of limited importance as they had been since the three credit crises of the 1750s had lessened public and private confidence in them. In wholesale trade the significant instrument was

[1] *e.g.* Lynch and Vaizey, *op. cit.*, p. 24.

the bill of exchange. The role of the Bank of Ireland lay not so much in its note issue as in its rediscount facilities, which strengthened the Dublin discount market. The gearing of Irish trade to the bill discounted in Dublin emphasizes the existence of an elaborate credit structure and the fact that it was largely independent of the London market.

Confusion entailed by the third premise has been even more disastrous for the proper understanding of Irish history. The premise assumes population pressure on the land throughout the century, and perfect competition which would ensure that rents rose to the level warranted by the population pressure. The possibility of the institutional arrangements of agriculture limiting the free play of competition is dismissed by assuming that leases were of short or uncertain duration and that more commonly there was no lease at all. These assumptions are however far wide of the mark as far as the eighteenth century is concerned. Firstly, the typical leases, three lives or 31 years, which Irish writers of the nineteenth century and later have regarded as short leases, were in fact long ones. With a secular rise in output and prices from the 1730s the tenant stood to gain substantially in the intervals between renewals. When prices broke, the long leases tended to land tenants in serious difficulties, as in the first decade of the century, the 1720s and the 1770s. As for the sharp rise in rents one would of course expect with rising prices overall the upward adjustment in rents on renewal of leases of this length to be a substantial one. Secondly, the assumption that leaseholders were a minority among the final occupiers of the soil is a misleading one. The number of leaseholders was large, and after 1760, with a conscious effort on the part of landlords to eliminate middlemen, rose sharply. There is however an almost complete unawareness among historians of the Irish scene of the complexity of the situation. Lecky for instance saw the mass of the people as or becoming cottiers early in the eighteenth century.[1] To Lecky and

[1] W. E. H. Lecky, *History of Ireland in the eighteenth century*, i (London, 1896), pp. 217, 246. Murray has the same view (*op. cit.*, p. 141). The concept of the Irish land system underlying Gill's *Rise of the Irish linen industry* is similar. To Gill 'by far the commonest lease in Ireland during the eighteenth century was for one year, with six months' grace', and the tenants kept themselves and their families 'at the subsistence level, with only so much surplus as would just satisfy the most urgent claims of the rent-agent' (*op. cit.*, p. 24).

to O'Brien the people affected allegedly by the advance of pasture were of cottier, not tenant, status.[1] Connell speaks of the 'perhaps occasional existence of a lease',[2] and Lynch and Vaizey see the majority in rural Ireland as labourers.[3] It is true of course that the Devon Commission in the 1840s stated that the greater part of the occupiers held their land only from year to year.[4] But historians have failed to see that there is little comparison between the land system on the eve of the Famine and that of the eighteenth century. Historians have wrongly seen accelerated population growth as something imposed on an existing land system, whereas it was in fact something which altered the original system almost beyond recognition. What Irish historians have failed to do is, firstly to distinguish clearly between tenant and cottier,[5] secondly, to see that the balance between tenant and cottier could alter, and thirdly, to take account of a radical change in the balance between the eighteenth and nineteenth centuries.[6]

[1] Lecky, *op. cit.*, p. 222; O'Brien, *Economic history of Ireland in the eighteenth century*, p. 97.

[2] Connell, *op. cit.*, p. 244.

[3] Lynch and Vaizey, *op. cit.*, p. 12.

[4] *Digest of the Devon Commission* (Dublin, 1847), p. 234, quoted in O'Brien, *Economic history of Ireland from the union to the famine* (London, 1921), p. 105.

[5] O'Brien, for instance, regarded the linen industry as one conducted by cottiers (*Economic history of Ireland in the eighteenth century*, p. 97). Yet the land-holding weavers of the eighteenth century were neither in a legal nor economic sense of cottier status. Racial hatred in landlord–tenant relations, said to be marked in Irish rural parts, does not appear to have been a pronounced feature of the eighteenth century so much as a product of tensions created as a result of the growth of a cottier population (which landlords themselves viewed with unease and frequently alarm) and of the fears engendered by the '98 rebellion. Even in the nineteenth century, as Whyte has pointed out (*loc. cit.*), the 'tenants' were often well-disposed towards a landlord, if he conformed to their concept of a good landlord, and pressures or intimidation were consequently not necessary to influence their voting in elections.

[6] Young, for instance, in his *Tour* frequently commented on the sharp rise in preceding decades in the number of cottiers. This was not a specifically Irish phenomenon. It was also happening in other countries where population was rising rapidly and where outlets off the land were deficient (B. H. Slicher Van Bath, *The agrarian history of Western Europe* (London, 1963), pp. 314–17). The problem of the agricultural areas of the south of England in the late eighteenth and early nineteenth centuries was a similar case in many respects and relief was in no small measure associated with the

The failure to distinguish between tenant and cottier and to detect the shifting balance between them is made especially serious by the assumption that population pressure on resources existed from the start of the century. There are only two arguments which could be advanced to support this thesis, firstly, evidence of a sharp rise in rents in the first half of the century, and secondly, food deficiencies, associated with a swing from tillage to pasturage, which by reducing the area under tillage is held to have aggravated an existing deficiency. The sharpness of the rise in rents is largely illusory. The rise in rents in the 1710s and 1720s reflects not population pressure but the unrealistically low rents at which many lands had been set in the first five years of the 1690s. A doubling of rents on new leases between the 1720s and the 1750s is itself deceptive because in the difficult economic conditions of the 1720s it seems likely that many leases did not rise to their real value. Estimates of the gross rental suggest a less sharp increase between the two periods, from £1,600,000 to £2,000,000 in the 1720s to £2,500,000, in the early 1750s, an increase at the outside of 56 per cent.[1] Rents rose more sharply between the 1750s and the 1770s. Young in his *Tour* commented on a doubling of rents on new lettings within the period. More significantly, his estimate of the gross rental suggests that it had more than doubled since the 1750s.[2] The sharp rise from the 1750s is consistent with growing population pressure; it is diffi-

decline in the agricultural population from the mid-nineteenth century. The difference in Ireland was mainly that this Europe-wide phenomenon proceeded much farther than elsewhere. For instance on the already overcrowded Glanerought estate in Co. Kerry, the number of holdings had increased between 1836 and 1846 from 755 to 1,038, not including squatters (Marquis of Lansdowne, *Glanerought and the Petty-Fitzmaurices* (London, 1937), pp. 127–28). A rise of these proportions in the demand for land was accompanied by a progressive worsening in the conditions of tenure, and tenures of a year's duration or less, formerly relatively few, became very common. In 1832–34 on the Inchiquin estates in Clare and Limerick 50 per cent of tenants had yearly tenancies, and 15 per cent held their land at will (J. Ainsworth (ed.), *The Inchiquin manuscripts* (Irish Manuscripts Commission, 1961), p. 544).

[1] Henry Maxwell, *Reasons offer'd for erecting a bank in Ireland in a letter to Hercules Rowley Esq* (Dublin, 1721), p. 47; Jonathan Swift, *The Drapier's letters to the people of Ireland*, ed. H. Davis (Oxford, 1935), p. 156; *Faulkner's Dublin Journal*, 7th/10th April, 1753.

[2] A. Young, *Tour in Ireland* (London, 1780), pt. 2, p. 8.

cult however to see it reflected in rents in the first half of the century.

The second argument—that harvest inadequacies were endemic[1]—is scarcely more impressive. It fails to recognize that food deficits were more the result of harvest failure either in an individual year or in a sequence of years, or more correctly of the coincidence of bad harvests in Ireland and abroad, which prevented the compensatory rise in imports from being adequate.[2] The assumption that food shortages were perennial is tied up with a belief that a swing from tillage operated in the first half of the century, which was powerful, uninterrupted and sustained. It is unconvincing in its lack of realism, because it fails to allow for the varying influence of local soil and market conditions, and because it postulates an unrealistically high degree of mobility in an undercapitalized and unenlightened agricultural community. In any event the move from tillage was, to the extent that it took place, not disastrous for the rural community as contemporaries suggested. In the intervals between deficit years, when high prices were a poor compensation for a shortfall in yields, the rural community was distressed by low prices for grain. The first half of the century was after all a period of depression in English arable cultivation, and the substitution of livestock for tillage in Ireland had a sound economic and social rationale.[3]

[1] O'Brien, for instance, stated baldly that the ten or fifteen years following 1728 were years of almost continuous shortage (*Economic history of Ireland in the eighteenth century*, p. 104).

[2] A detailed study of weather conditions, their effect on harvest yields, and the state of the international market for grain would be illuminating. Bad Irish harvests in 1739, 1740 and 1741 and again in 1744 and 1745 contrasted with bumper ones in 1742 and 1743. The phenomenal rise in imports of grain and flour in 1745/46, a period in which disastrous failure in Ireland coincided with less deficient harvests elsewhere, is an indication of the normally large proportions of the Irish harvest. The failures of 1739 and 1740 were no more complete than in 1744. But in the former two years deficiency outside Ireland was acute also; in the latter year the international food balance was more favourable. As a result in comparison to needs in Ireland the rise in imports in 1740 and 1741 was modest; in 1745/46 on the other hand imports were far and away the largest of the century. Famine was inevitable in 1740 and 1741, but failure of at least equal proportions in 1744 (with a severely deficitary harvest in 1745 also) did not result in a repetition of the same experience.

[3] See L. M. Cullen, *loc. cit.*, p. 153.

Moreover, whatever the interest of both landlords and tenants in effecting a change, there is evidence that the movement out of tillage was not progressive and that tillage remained substantial even in the 1750s. It is wrong to depict Ireland as having become a marginal producer of grain by that time.[1] Irish historians have mistakenly suggested that livestock farming required less capital than tillage.[2] In fact, tillage by the substitution of labour for capital required less, and a switch from tillage to livestock was not necessarily easy, even where local soil conditions and market demand helped to encourage it. In fact, there is evidence that there was much greater substitution within livestock production and tillage respectively than between them. Although the long-term trend was out of sheep pasturage, there was temporarily a significant reversal of the trend in the early 1730s, the late 1740s and the early 1760s. Within arable farming it seems likely that farmers substituted barley for wheat in the 1730s, and wheat for barley in the 1740s and 1750s. In the 1750s, despite recurrent failure, only half the consumption of wheat and flour in Dublin appears to have been met from imports.[3] In the 1760s, itself a bad decade, total imports of grain, malt, meal and flour were little larger than the amounts sent to Dublin by land carriage alone.[4]

[1] M. Drake, 'The Irish demographic crisis of 1740–41', paper read to the Seventh Irish Conference of Historians, June, 1965.

[2] Connell, *op. cit.*, p. 93; Murray, *op. cit.*, p. 135.

[3] According to figures before a House of Lords committee, the proportion was two fifths (*Journal of the Irish House of Lords*, iv, p. 101). However, the calculation of imports of wheat and flour to Dublin was inflated by a grossly erroneous figure for imports in the year ended March 1755. The imports of wheat and flour in that year were 287,558 barrels. But according to the official returns of trade in corn and flour, the quantities imported to Dublin in that year were 55,652 cwt flour and 51,862 quarters wheat (*Journal of the Irish House of Commons*, ix, App., cclxix). Converting both quantities into barrels on the basis apparently employed by the Lords committee (one quarter wheat equals two barrels, three cwt flour the equivalent before milling of two barrels wheat), the total import of wheat and flour amounts to 140,832 barrels, or somewhat less than half the figure calculated by or given to the committee.

[4] Annual average imports of wheat, oats, barley and malt and flour to Ireland between 1760 and 1769 were 1,768,856 stone (Connell, *op. cit.*, p. 269, Table E). The inland carriage of grain, meal and flour to Dublin alone averaged 1,690,408 stone between 1762 and 1769 (*Journal of the Irish House of Commons*, viii, App., *passim*). This is all the more impressive on

The fourth premise—a subsistence economy—loses much of the basis for its support, if we discount the existence of population pressure in the early stages of the century, and if we assume that the land system was far from being a mainly cottier one. The extreme expression of the concept of a subsistence economy is that of Lynch and Vaizey, which makes an artificial distinction between a subsistence economy scarcely touched until the famine by cash and a maritime economy in which cash is used. The picture is factually misleading. The assumptions that underpin it are (*a*) that people in the subsistence economy did not handle cash, and (*b*) that trade had not produced an integrated market economy. The first assumption is far wide of the mark. It could be accepted only if rents were paid in kind—an assumption which the authors in fact make.[1] But few rents were paid in kind, and the move from a barter to a cash basis was powerfully evident even in remote regions. Nor can all the cash receipts have gone in rent payments, if leases were long, and leaseholders numerous. Wholesale trade was almost wholly monetized in the second half of the century. Retail trade and wage payments were less so, but similar vestiges of a subsistence economy were still quite widespread in England, and in any event are partly accounted for by a scarcity of small coin. The existence of the *spailpin* or migrant labourer testifies to a cash basis to much of the rural labour market in addition to the cash labour market of the towns. The second assumption—that trade links were not strong enough to unify rural hinterland and towns into a single cash economy—overlooks the fact that internal trade links were numerous and that the rising export trade was based on an intricate and changing pattern of inland trade in livestock, livestock products, wool, worsted yarn, linen cloth and yarn and grain. Moreover trade was not only extensive, but the evidence suggests that through sales of agricultural products and linen the supply of bills of exchange in rural parts was larger than the demand for them and that the balance was remitted to the countryside in cash. Much of the substantial rise in the supply of specie in the second half of

account of particularly severe harvest failure in 1766 which sharply reduced the inland carriage of grain and flour to Dublin in the year ended March 1767 and heavily inflated imports in the same year.

[1] Lynch and Vaizey, *op. cit.*, p. 25.

the century must therefore have been diffused in a widespread manner.

If we discard these four premises, Ireland's development in the eighteenth century is less a special chapter in the economic history of the period. Even Irish demographic history and the role of the potato in it has less of the special about it than has been commonly implied. Dr Drake has gone some way towards bringing this out by emphasizing that the diffusion of the potato diet belongs more to the second half of the century than to previous Irish history.[1] But the potato's role in Irish demographic growth is likely to have been even more complex than Dr Drake allowed for. It is unproved that the potato influenced the early stages of accelerated population growth either by facilitating earlier marriages (Connell[2]) or by mortality-reducing/fertility-increasing effects (Drake[3]). Peasants do not change their diet readily. The fact that grain consumption in the third quarter of the century was not only large but that there are some indications that it was still advancing[4] suggests not only that the potato diet spread relatively late in the century but that it did so under the emergence of some external pressure such as population growth itself. If in other words the potato was adopted as the staple of the diet because population was multiplying at an accelerated pace, not population multiplying because the potato diet made accelerated demographic growth possible, Irish demographic expansion in its early stages (although not in its projection or aftermath) fits with greater conformity into the demographic picture of the eighteenth century.

Research, if it is to advance our knowledge of the economy as a whole, must dissociate itself from the outmoded premises, which no less than the small amount of research are responsible for the lack of progress in Irish economic history. Once the outmoded attitudes are cast aside, it is possible to point out the major problems facing the historian. They are two. The first is the changing balance between favoured and less favoured occupiers of the soil, a development whose outline has been suggested

[1] M. Drake, 'Marriage and population growth in Ireland, 1750–1845', *Economic history review*, 2nd series, xvi, no. 2 (December 1963).

[2] Connell, *op. cit.*

[3] Drake, *loc. cit.*

[4] *Journal of the Irish House of Commons*, ix, App. cccxxii, cccxxv.

in this paper but about which much still remains to be learned. The second is the early stage of population growth, which remains a phenomenon whose emergence in Ireland no less than in other countries still awaits an adequate explanation.

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ST DOMINIC AND HIS FIRST BIOGRAPHER[1]

By Professor C. N. L. Brooke, M.A., F.S.A., F.R. Hist.S.

READ 12 MARCH 1966

THE Order of Preachers was created under the skilled direction of two great men: Dominic of Caleruega and Jordan of Saxony. Whatever else they may have been, both were brilliant organizers; they sketched between them the most sophisticated constitutional organization known to the Middle Ages; for good or ill, they created for us the idea and technique of committee government. Both, it is clear, had tidy and lucid minds. We know that Jordan wrote excellent Latin, was capable of making plain in a few words the nature of the casting vote in general chapter, and equally capable of communicating to his friend Diana Dandalo, and to us, the inwardness of spiritual friendship and the delight of missionary work among the students of Bologna and Paris, many of whom he gathered into the Dominican Order. In addition, Jordan was Dominic's first biographer and one might well expect a biography of great authority, like the first life of St Bernard, or even of great intimacy, like Eadmer's *Life of St Anselm*.[2] Jordan's book is a very

[1] The magisterial study by M.-H. Vicaire, O.P., *Histoire de S. Dominique* (2 vols., Paris, 1957), cited here, as Vicaire (1964), from the English transl. by K. Pond (London, 1964), makes extensive reference to modern literature on St Dominic unnecessary; Professor Vicaire gives a full bibliography on pp. 436–44. The book was accompanied by *S. Dominique de Caleruega d'après les documents du XIIIe siècle* (Paris, 1955), French translations of the major sources with a useful introduction, cited as Vicaire (1955); and had as its chief predecessor P. Mandonnet and M.-H. Vicaire, *Saint Dominique, l'idée, l'homme et l'oeuvre* (2 vols., Paris, 1937), cited as Mandonnet-Vicaire. Vicaire (1964) treats exhaustively most aspects of Dominic's life; the majority of the numerous modern lives are of substantially less value. Among English studies, the interpretations of R. F. Bennett, *The Early Dominicans* (Cambridge, 1937) and D. Knowles, *Religious Orders in England*, i (Cambridge 1948), pp. 146 ff. are of particular interest; Professor Knowles has discussed Vicaire (1964) at length in *Blackfriars*, xxxix (1958), pp. 147–55.

In preparing this lecture I owe particular help to the guidance and inspiration of Professor David Knowles and of my wife, Dr R. B. Brooke.

[2] *Cf.* R. W. Southern, *St Anselm and his Biographer* (Cambridge, 1963), esp. ch. IX.

singular work; to me it seems full of surprises, surprising above all for its dullness; and it is this quality which I wish to parade and investigate before you this afternoon.

Needless to say, this quality has not escaped the attention of scholars. There are some who have not noticed, or not admitted it; but sooner or later it tends to be reflected in what they write. It has been particularly observed how sharp is the contrast between Jordan's book and the early lives of St Francis—a contrast which is a constant and legitimate source of complaint to students and disciples of Dominic. Three lines of explanation have been offered. It has been pointed out that Jordan did not know Dominic very well. Dominic was born about 1172, and was already well past forty when he began to found the Order; and he only spread it beyond the confines of Provence four years before his death. Jordan of Saxony became a Dominican in 1219; although we know they met before this, it cannot have been much more than a chance encounter; and they appear never to have been together for more than a few days, and that only two or three times, between 1219 and Dominic's death in 1221.[1] It is indeed somewhat surprising that Jordan should have become Dominic's successor as Master General of the Order, and even more surprising that he should have written the first life of the saint.

The second line of explanation is, however, that his book is not a life at all, but a history of the foundation of the Order, and that Dominic as a person is therefore not central to its theme.[2] This too is true, but it is only a half truth, and looked at more closely adds to the puzzle rather than helps to solve it.

[1] *Cf.* B. Altaner, *Der hl. Dominikus, Untersuchungen und Texte* (Breslau, 1922), pp. 6–7, 13–14; Bennett, *Early Dominicans*, p. 20 n. For Jordan's entry into the order and later career see esp. E. Mortier, *Histoire des maîtres généraux de l'Ordre des Frères Prêcheurs*, i (Paris, 1903), pp. 137–253; H. C. Scheeben, *Beiträge zur Geschichte Jordans von Sachsen* (*Q*[*uellen und*] *F*[*orschungen zur Geschichte des Dominikanerordens in*] *D*[*eutschland*], xxxv, 1938), pp. 36 ff.; *idem*, *Jordan von Sachsen* (Vechta, 1937).

[2] *Cf.* H. C. Scheeben's introduction to his edition of the Libellus (*M*[*onumenta*] *O*[*rdinis Fratrum*] *P*[*raedicatorum*] *H*[*istorica*] xvi, Rome, 1935), pp. 20–1 (cited as Jordan). Vicaire (1955), p. 16, emphasizes the positive qualities of Jordan: 'Il est maître de sa plume et sait conter avec agrément, brièveté, précision, bonhomie et humour'. This I do not deny: nor his capacity to give vivid personal impressions. What I find profoundly puzzling is his failure to make Dominic a living figure, a failure (noted by Vicaire, p. 18; and see below) made all the more striking by these qualities.

The third line of explanation is that Dominic was perhaps, after all, rather a dull man, and that Jordan was therefore in some sense making the best of a bad job. This has been the view of many historians, and it was given classic expression when H. C. Lea observed, stifling a yawn, 'he made less impression upon his contemporaries than his followers would have us believe'.[1]

Neither alone nor together do I find these explanations wholly satisfactory; and I take comfort at the outset by observing that some of the most eminent modern scholars who have worked on Dominic find him anything but dull.

Jordan's preface makes it clear that some of the friars had been grumbling that memory of the Order's early days and of Dominic was growing dim, and it was this which stirred him to write his book, in 1232 or 1233, a dozen years or so after the saint's death.[2] Since it was soon followed by Dominic's translation and canonization, we may reasonably suppose that one of its objects was to foster the cult. Like Celano's first life of St Francis, it was in some sense a *pièce justificative* for his canonization at the hands of his old friend and patron, Hugolino, Pope Gregory IX; though Celano's book was written after, whereas Jordan's preceded the canonization.[3] Yet it is not a biography or a saint's life in the ordinary sense. 'It seemed good to me' writes Jordan in the preface, '—who, though I was not among the first, none the less have conversed with the first brothers and saw the blessed Dominic himself both when I was outside the Order and after I had joined it, and knew him well (*familiariter*); I made confession to him and took the order of deacon at his wish, and put on the habit four years after the Order was first founded; it seemed good to me, I say, to put in writing everything in order, which I

[1] H. C. Lea, *History of the Inquisition in the Middle Ages* (2nd edn.), (New York, 1908), i, p. 256, cited Bennett, *Early Dominicans*, p. 28.

[2] Between Christmas 1231 and May 1233: Scheeben in Jordan, p. 22; Vicaire (1955), p. 17. The account of the translation was added before 1235, probably in 1233–4; possibly as an addition to the *Libellus*, possibly as an encyclical letter (Vicaire (1955), pp. 16–17).

[3] Celano's two 'lives' (cited as 1 Cel., 2 Cel.,) are in *Analecta Franciscana*, x (Quaracchi, 1926–41); for 1 Cel., see c.1 and note in MS. P, c. 151 (*ed. cit.*, p. 115 n.): I would accept the date, 25 Feb. 1229, in MS. P for the approval of 1 Cel., in spite of the doubts of J. R. H. Moorman, *Sources for the life of S. Francis of Assisi* (Manchester, 1940), pp. 67–8; *cf.* M. Bihl in *Archivum Franciscanum Historicum*, xxxix (1946), pp. 21 ff.

saw myself and heard, and knew from the description of the first brothers, of the beginnings of the Order, of the life and miracles of our blessed father Dominic, and of some other brothers, as they came to my mind, so that his sons who will be born and arise in the future, shall not be ignorant of the first beginnings of this Order, and wish to know in vain, since passage of time may make it impossible to discover anything sure about those beginnings.'[1]

I have quoted this passage in full, because it makes abundantly clear, I think, two of the puzzles with which we are at grips. When St Bonaventure, like Jordan the head of his Order, and one of the great writers of the western world, set to work to write St Francis's life in the 1260s, he claimed that nothing would have induced him to do anything so presumptuous if the fervent wish of the brothers and the insistence of the whole General Chapter had not compelled him.[2] Thomas of Celano protests somewhat less, but his first life was written, he says, by Pope Gregory's order, and his second, composed in the name of Francis's intimate companions, was written on the instructions of the General Chapter and the Minister General.[3] This was the normal convention: to write a great man's life was presumptuous; one professed one's inadequacy and laid the blame on authority or on the insistence of friends.[4] Jordan of Saxony makes no such excuse: 'It seemed good to me', he says, and he says it twice, making the best meanwhile of his own knowledge. This was at least a breach of convention, and is surprising; and it underlines the major problem: if Jordan did not really know Dominic well enough, why did he write at all? The prologue at least, if we may accept what it says, seems to make clear that no-one forced him to write.

The second point is the ambiguity of purpose which is revealed. Jordan has confused two genres. Normally, one either wrote a life of a saint (or candidate for sainthood), or a history of the Order, like the various Cistercian *Exordia*.[5] It has com-

[1] Jordan, c. 3. 'Visum est mihi' is an echo of Luke i, 3; the opening of Luke may have influenced other passages in Jordan (as Dr T. M. Parker has suggested to me), but it is not easy to establish any precise influence.

[2] *Legenda maior*, c. 3 (in *Analecta Franciscana*, x, p. 558).

[3] 2 Cel., cc. 1, 223.

[4] The convention is not governed by anything like a rigid rule: but Jordan's breach of it is none the less striking.

[5] See esp. *Exordium Magnum Cisterciensis*, ed. B. Griesser (Rome, 1961);

monly been supposed that Jordan really intended to write one or the other: in former times most scholars reckoned it was a life of the saint; in recent times it has been fashionable to call it a history of the Order. One of the manuscripts supports this view by referring to it as 'De initio ordinis', another as 'liber principii ordinis';[1] and its most recent editor, Dr Scheeben, reasonably entitled it 'Libellus de principiis', echoing Jordan's words. But the titles in the manuscripts have no authority, and Jordan's words suggest strongly that his purpose was twofold, if not frankly ambiguous. This is confirmed by the book itself. Most of the time Dominic is in the background. Several early brothers are sketched more vividly than he. One is prepared for this at the outset. 'There was a man in the land of Uz', runs the opening of the book of Job, 'whose name was Job'; Celano's first life of Francis echoes it thus: 'There was a man in the city of Assisi (which is situated on the confines of the valley of Spoleto) whose name was Francis'. But Jordan opens: 'There was a man in the parts of Spain of venerable life whose name was—Diego' [2] and in many early passages the initiative and holiness of Diego, bishop of Osma, Dominic's first patron, is stressed far more than Dominic's own work. This was not imposed on Jordan by his material, for after the first chapter on Diego, we are carried back to Dominic's family and birth and given a conventional hagiographical narrative until Dominic arrives at Osma. It almost seems as if Jordan dragged Diego in at the outset to put Dominic in his place. And so it goes on: as one reads, from time to time one thinks that the book is tending clearly in one direction; then in another. Down to Diego's death in chapter 30, the bishop is the central figure; then Dominic takes over and one is rapidly transported through the early stages to the key moment, in the brief chapters 53–5, when the brothers first settled in Paris, Orléans and Bologna. At this stage the excitement is mounting, and one might expect, from any point of view, an exposition of Dominic's own work and plans as the Order at last took shape. But chapters 56–85 are (with very brief interludes) concerned with two other friars, Reginald and Henry, and with Jordan's

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for the controversies on the earlier Cistercian documents, see D. Knowles, *Great Historical Enterprises* (London, 1963), pp. 197 ff.

[1] Jordan, ed. Scheeben, p. 25, n.a. [2] 1 Cel., c. 1; Jordan, c. 4.

own entry into the Order. In chapters 86–87 Jordan and Dominic meet briefly at the General Chapter in Bologna in 1221, the last of Dominic's life, but in chapter 88 Jordan sets off for Lombardy; 89–91 are an interlude on brother Everard, and in chapter 92 Dominic takes to his bed for the last time. This is not the end: his death, burial and miracles occupy some space, and there is an account at the end of his manner of life and holy character, followed, characteristically, by a passage on another friar. Down to the death of Dominic, an impartial reader is bound to feel that it is primarily the Order, not the saint, which interested Jordan. But this is not the final impression; for one cannot help but observe that Dominic's life provides the framework of the whole. It opens, in effect, with his birth, and it closes with his death—to which his translation was later added as an afterthought.[1] There is not a word on the Order's affairs between 1221 and 1232; perhaps Jordan felt it was unbecoming to describe his own generalate, and perhaps it was too recent to need any description. But one cannot help noticing the contrast between Jordan's readiness to describe the history of the Order before he knew it and his silence on most of what he knew really well. If he was more concerned to tell the history of the Order than of the saint, it is hard to see why the book should culminate in what purports to be a characterization of the founder, and why its author should regard an isolated event in the 1230s (the saint's translation) as a suitable addition all on its own.

Unintelligible, that is, unless we decide, in the end, that Jordan was simply incapable of writing a sensible book or of sticking to his purpose. This is a possible view, and it cannot be convincingly refuted, since we have no other work of his comparable in scale or design. Yet two things tell against it. First, clarity of purpose is most decisively revealed in Jordan's work as Master General.[2] Throughout the years when first St Francis and then Brother Elias were reducing the Order of Friars Minor to

[1] See Jordan, pp. 4 ff.; Vicaire (1955), pp. 16 ff.

[2] See above, p. 24, n. 1; H. C. Scheeben, *Die Konstitutionen des Predigerordens unter Jordan von Sachsen* (*QFD*, xxxviii, 1939); the early recension of the constitutions is also ed. Denifle, in *Archiv für Literatur- und Kirchengeschichte des Mittelalters*, i (1885), pp. 165–227; French transl. in Vicaire (1955), pp. 137 ff.; for their historical development, see Mandonnet-Vicaire, ii, pp. 203 ff., 273 ff.; Vicaire (1955), pp. 113–21; G. R. Galbraith, *The Constitution of the Dominican Order, 1216–1360* (Manchester, 1925).

chaos, Jordan of Saxony was forming and establishing the tiny plant which he, scarcely out of his novitiate, had taken over from the founder, and seeing it grow into a great Order. It is perfectly true that successful men of action often fumble when they take to the pen; but our second difficulty in believing Jordan to be merely incompetent is the contrast between the *De principiis* and his letters. They are not long or elaborate enough for us to judge their author as an exponent of literary form; but they reveal a man who knew the conventions of writing in his age—and so presumably knew the conventions which he has broken in his book; they show a singular adroitness in adapting tone and style to a particular situation, and he asks for and gives consolation with a skill reminiscent of St Bernard. Here is his Christmas card to Sister Diana: 'I have had no time to write you a letter on the ample scale I would wish, but I am writing and sending you one word—one small word enclosed in a manger, which was made flesh for us, the Word of grace and health, of sweetness and glory, good and soothing: Christ Jesus and Him crucified, lifted up on the cross, raised up to the right hand of the Father. Raise your soul to Him and may rest be yours in Him for ever. . . . And there is another short and modest word, your affection and your heart, which will speak up for me and make amends for me in your heart to your loving self. . . .'[1] Jordan can be economical in his use of language: when he describes the students he has recruited to the Order one is left to assume much of the excitement of his fishing; but he handles the theme of human affection with a firm, deft hand, though always in the context of divine love and eternity. It is the quality most strikingly developed, sometimes quite passionately developed, in the letters, and it is the quality most difficult to grasp in the *De principiis*. However unwillingly, we must face the possibility that the dullness of Jordan's book, and the ambiguity of its purpose, were in some sense and some measure deliberate.

At a casual reading, the *De principiis* gives the impression that Dominic's purpose unfolded inexorably, that he was a man of deep reflection who (however affable to his friars) kept his own counsel and made his own, carefully reflected, plans. Yet there is evidence from a variety of sources that Dominic could be

[1] *Beati Iordani de Saxonia Epistulae*, ed. A. Walz (*MOPH*, xxiii, 1951), no. xli.

extremely impulsive; and this has sometimes been noticed by modern scholars, at least as an occasional intrusion into a calm life.[1] Let us pause for a moment to consider three striking pieces of evidence of his impulsiveness.

On 13 August 1233, twelve years after Dominic's death, Brother Stephen, prior provincial of Lombardy, was called to give evidence at the process for Dominic's canonization—the records of which form the only substantial body of early evidence about the saint apart from Jordan's *De principiis*.[2] 'He also said that when he himself, the witness, was studying at Bologna, Master Dominic came to Bologna and preached to the scholars and other good men, and he himself confessed his sins to him, and it seemed to him that Dominic was attracted to him. One evening, when the witness was sitting down to dinner in his hostel with his fellow-students, brother Dominic sent two friars to him, saying: "Brother Dominic commands that you come instantly to him". And he replied: "When I have had my dinner, I will come to him". And they said: "No! Come at once". And so he got up, left them all, and went to Dominic; and he found him with a crowd of friars in St Nicholas' church. And brother Dominic said to the friars: 'Show him how to ask forgiveness". When he had asked pardon, he put his hands in Dominic's—and before he let him go, Dominic put the habit of the Friars Preachers on him saying, "I will give you arms, with which you may fight against the devil the whole of your life". And the witness was mightily astonished, then and later, how Dominic came to call him and clothe him in the habit of the Friars Preacher, since they had had no previous conversation on his entering religion. He believes he did it by divine inspiration or revelation.'

The second piece of evidence comes from Franciscan sources, and is perhaps the most celebrated, and certainly the most disputed event in Dominic's life. It is the familiar story of how Francis and Dominic met in Rome in the palace of Cardinal Hugolino, patron of both Orders.[3] It tells how, after a highly edifying exchange of humility, Dominic asked Francis to give him his girdle, and suggested that the two orders should be merged. The story comes from Celano's second life of St Francis and although it is not one of those whose source can still be found

[1] *Cf.* esp. Knowles, *Religious Orders*, i, p. 149 and n. 5.
[2] *MOPH*, xvi (1935), 153–54.
[3] 2 Cel. cc. 148–50.

in the writings of brother Leo and his fellow-companions of the saint, Celano was usually careful to collect his information from friars who had known Francis well.

This is the only one of the many stories of meetings between Francis and Dominic which is generally accepted by modern scholars as having an authentic nucleus. Most recent accounts of their relations depend on a penetrating study by Berthold Altaner, who dated this meeting to the early months of 1221.[1] By this date Dominic's work for his Order was nearly complete, and his death not many months away. However impulsive he was, it is really incredible that he should seriously have proposed a merger at that date, especially as the Franciscans were only just beginning to recover from some months of disarray due to the founder's absence in the East. It has therefore become the custom to accept the story of the saints' meeting, but deny its content, or assume that in practice all that took place was a friendly exchange of good feeling. But if it could be placed some four or five years earlier, as some scholars have held,[2] one might take Dominic's scheme quite seriously, so long as one is prepared to accept him as a man of unusual humility and impulsiveness.

In his first life Celano describes a crucial meeting between Francis and Hugolino in Florence. Before this meeting, he tells us, they were not intimately acquainted, but linked in mutual charity by repute of holiness alone—'sola fama beate vite'. It has sometimes been supposed that they were now meeting for the

[1] 'Die Beziehungen des hl. Dominikus zum hl. Franziskus von Assisi', *Franziskanische Studien*, ix (1922), pp. 1–28. Altaner argued in favour of 1221, though he reckoned a meeting in 1216 (using Gerard of Fracheto—see below) a possibility. His argument for 1221 depended on the assumption that Francis and Hugolino first met in 1218, a view no longer held; but Altaner's date for the meeting of the two saints has survived the removal of its main prop: *cf.* Vicaire (1964), pp. 494, 515, 521 (Vicaire is even more sceptical than Altaner about Gerard of Fracheto's narrative, and says in general (p. 515): 'the meeting of the two saints remains hypothetical'). It has sometimes been argued that mendicant hagiographers would naturally have invented meetings of the two saints. They are, however, remarkably rare in the early legends (apart from the two discussed here, there seems nothing till the much later story in the *Actus-Fioretti*, and Altaner, p. 8, shrewdly observed that St Bonaventure had succeeded in reproducing the gist of the passage from 2 Cel. while quietly dropping Dominic from it).

[2] See H. Grundmann, *Die religiöse Bewegungen im Mittelalter* (2nd edn., Hildesheim, 1961), pp. 145 f.

first time; but if so, one would hardly trouble to say they were not 'intimately acquainted', and it is for various reasons difficult to believe that this was indeed their first meeting. Since, however, the work in which it is described was commissioned by Hugolino himself (as Pope Gregory IX), the impression it gives, that Hugolino and Francis had not met often before, is likely to be correct. This meeting probably took place in 1217, certainly not later than 1218.[1] It was Dominic's practice to visit Rome in the winter and this meeting with Francis in Hugolino's presence could have taken place at the turn of any year between late 1215 and early 1218 or at the turn of 1220 and 1221.[2] If we are to place any credence in the passage which describes how Dominic suggested a union, we should look for as early a date as possible, before Dominic's Order and its un-Franciscan features were formed. 1216, 1217, or the opening months of 1218 would meet these conditions.

The other early version of the meeting of the two saints is in some ways even better authenticated. It occurs in the collection of stories about the early Dominicans gathered by Gerard of Fracheto in the late 1250s, a book which has earned a bad reputation owing to the extreme credulity of its author.[3] Yet there are copious indications that he did not invent the tales he recounts, but faithfully passed on what he was told. For our purpose, the naïve scribe Fracheto is in some ways preferable to the more sophisticated Celano. Fracheto, moreover, is quite specific about his source: 'A certain Friar Minor, observant and reliable, a man who had been for long a companion of St Francis, told [the story] to several friars, one of whom put it in writing for the Master of the Order'. He goes on to tell how Dominic was in Rome, appealing to God and the Pope 'for the Order's confirmation';

[1] 1 Cel. cc. 74–5; *cf.* A. Callebaut in *Archivum Franciscanum Historicum*, xix (1926), pp. 530–58; R. B. Brooke, *Early Franciscan Government* (Cambridge, 1959), pp. 286–87. 1218 is much less likely than 1217, since in 1218 Hugolino did not reach Florence until August at the earliest, and possibly October. For the evidence that Hugolino and Francis met before 1217, see Grundmann, *op. cit.*, p. 146 n.

[2] For Dominic's visits to Rome, see Vicaire (1964), pp. 191, 202, 216, 240, 277, 330, 336 and notes. In 1218–19 he wintered in Spain, and in 1219–20 St Francis was in the east.

[3] Gerard de Fracheto, *Vitae Fratrum*, i, 1, 4, ed. B. M. Reichert, *MOPH*, i (Louvain, 1896), pp. 9–11.

and how he had a dream in which he saw the Blessed Virgin present Dominic and Francis to Christ as two men who would bring the world back to Him. Francis was then a stranger to Dominic; but when he met him next day in a church, Dominic recognized him as the colleague of his dream, embraced him, and said: ' "you are my colleague, you and I will run the race together; we will stand as one man and no adversary will prevail against us". Then he told his vision, and they were from that moment "one heart and one soul"[1] in God.'

In spite of its credentials, this story has commonly been disbelieved; largely, perhaps, because it was first printed from a manuscript which ascribed the event to the time of the Fourth Lateran Council of 1215; and it is doubtful if Francis attended the Council. But the reference to the Order's confirmation, which is all that the best manuscripts give as an indication of date,[2] more naturally refers to Dominic's visit to Rome at the end of 1216, when he succeeded in obtaining his Order's confirmation. And if it be true that this was their first meeting, the meeting in Celano's second *Life* cannot be earlier than the arrival of Dominic in Rome in November 1216.

It sits on the surface of these stories, however, that they describe the same meeting. The purpose of the story in Celano is to emphasize that the two Orders should imitate their founders, who were so close in spirit they even thought of uniting the Orders. Doubtless the same intention underlay the transmission of Fracheto's narrative, although he gave it its place in his book as evidence of the part the Blessed Virgin played in the foundation of the Order of Preachers. One is the more inclined,

[1] *Cf.* Acts, iv, 32, also quoted by the prologue to the early Dominican Constitutions, from the Rule of St Augustine (*QFD*, xxxviii (1939), p. 49).

[2] Only MS C (and later sources) attribute it to the Lateran Council; since this is one of the two surviving MSS of Gerard's second recension, it could be, as Reichert seems to have supposed, that this was Gerard's own second thought. But if his apparatus correctly states that C alone (which Reichert knew only at second hand), and not A, the other MS of the second recension, has this change, it seems more likely to be a later gloss. The other MSS read 'pro ordinis confirmacione'; 'confirmatio ordinis' is the phrase used by Jordan, c. 45, for the confirmation by Honorius III in 1216. Grundmann, *Die religiöse Bewegungen*, pp. 146 ff., shows that it is on the whole probable that Francis visited Rome in 1215, so that 1215 is a possible date for the meeting of the saints; but the indications seem clearly to favour 1216.

therefore, to give credence to the part of the story irrelevant to this purpose—namely the meeting with Francis, and Dominic's initiative in suggesting that they should work together—which is probably as near as a Dominican source could ever get to the suggestion for a union. One might argue, indeed, that the Franciscans were only too likely to invent such a suggestion. But Celano's narrative reveals some embarrassment. The tale in general is intended to show the two saints' friendly rivalry in humility; it is implied that neither obtained a decisive advantage in the competition over the other. But this effect can only be sustained by a slight stratagem. When Dominic makes his offer, Francis's reply is not recorded. One is left to assume that he said no rather firmly; but to admit as much would have given Dominic a clear advantage. To believe this story a Franciscan invention is not without its difficulties;[1] and the more closely one looks at the two stories, the more probable it becomes, I would think, that they represent two different versions, separately transmitted by early companions of St Francis, of the same incident. If we accept this, then Dominic offered Francis an amalgamation at the turn of 1216 and 1217; whether we accept it or not, Fracheto's story is clear evidence that the two saints met and that Dominic took the initiative in expressing their unity of purpose, at this date.

In 1216 Dominic had about 16 friars, and in that year they were first recognized as an order following the rule of St Augustine, that is to say, as canons regular, but with a special instruction to preach. They were still a very local order, living all together in Toulouse. But in 1217 their lay protector, Simon de Montfort, lost his grip on Toulouse, and Jordan of Saxony himself provides us with our third piece of evidence for Dominic's impulsiveness.[2] Dominic foresaw, he tells us, Count Simon's death. 'Then he called on the Holy Spirit and gathered the brothers, and said to them that this was his heart's intention, that he should send them throughout the world, few though they were, and that they should live together there no more. They were all astonished at this pronouncement of so sudden a decision; but the clear authority of sainthood in him inspired them, and they readily acquiesced,

[1] See above, p. 31 n. 1.

[2] Jordan, cc. 46–8. For the background to these events, see Vicaire (1964) ch. XII, and esp. pp. 229–30 for evidence that Dominic had some special experience in Rome in 1216–17.

hoping that it would all turn out for the best'. The tiny band was sent to Spain, France and Italy, and soon afterwards Paris and Bologna, the university cities, became their headquarters, and the whole of Christendom their parish. At the same time Dominic set up another friar as abbot of the congregation, though retaining ultimate direction himself.

If I may for a moment simplify somewhat crudely the picture of Dominic with which we have commonly been presented, I might say that he appears as the type of the calm administrator, the man with a clear purpose, the model of medieval constitutional theory in practice, the man to whom we owe the principle of representative government.[1] For all these propositions there is a good deal to be said; they cannot tell the whole truth, but they are near enough to it to make Jordan's story as astonishing to us as it was to his brothers—and even more astonishing, as I would think, the lack of surprise with which most modern historians have greeted it. Dominic had toiled among the Cathars for many years, in spite of every discouragement, with little to show in the way of outward success; suddenly he threw his cap over the moon; the apostle of representative government turned his Order upside down without any sort of consultation or referendum. Jordan tells the story in his cool, matter-of-fact, deadpan way, and gives no clue what lay behind it—save that it followed the collapse of Simon de Montfort's authority. This is a reasonable explanation of the timing of the move, but inadequate to explain the cataclysmic nature of the move itself. If a lay patron fails, it is sensible to look for a safer refuge; Dominic's solution was (from a worldly point of view) the supreme gamble of his life. In the main, he turned his back on the heretics; he turned to the

[1] Vicaire, *loc. cit.*, cites evidence for a mysterious illumination about this period, and observes how little we know of the saint's inner spiritual life. This is very true, and it may be held that the discussion in the text proceeds at a somewhat superficial level. But Dominic was evidently a man profoundly influenced by the world around him. Constantine of Orvieto (c. 25, *MOPH*, xvi, p. 304), writing in 1246–7, adds a vision in Rome to Jordan's narrative and makes this the explanation of his *démarche*; a witness at the canonization (*MOPH*, xvi, p. 185) attributed the dispersal to 'spiritus propheticus', which does not, however, suggest any special knowledge of the matter. Another witness noted that Dominic acted against the will of Simon de Montfort, the archbishop of Narbonne, the bishop of Toulouse, 'et quorumdam aliorum prelatorum' (*MOPH*, xvi, pp. 143–44).

Church at large, to recruiting in student centres, to organizing a peripatetic order, to preaching everywhere and to everyone.

The universities were a new goldmine. But in turning his back on the heretics, in looking to the world at large, in sending the friars on long tours—and in appointing someone else to be disciplinary head of the Order—Dominic was doing what Francis had done. If it is true that Dominic and Francis had met a few months before this event, and that Dominic had been so gripped by Francis' inspiration that he offered to submerge his order in Francis', then something of the strangeness of Jordan's story is made plain. No doubt visions of a new vocation for his Order had been in Dominic's mind before, but the very suddenness of his resolution suggests a recent, overwhelming experience of the kind men suffered at the hands of Francis of Assisi. That Francis influenced Dominic is so obvious an idea that scholars have been competing with one another for two generations to find ever more ingenious proofs that it did not or need not have happened.[1] It is perhaps true to say that those who approach the problem through the study of Francis have generally assumed that Francis influenced Dominic, as (they usually feel) he must influence any sensitive person who comes in contact with him. Those whose first interest lies in Dominic have generally denied all influence or at least been minimizers. I am a *Franciscanisant* by marriage, and so, it may be thought, inclined to maximize his influence. It may be so. The precise nature of Francis' influence on Dominic can never be fully demonstrated; and the issue has been somewhat confused by a concentration in most discussions on the subject on the issue of poverty. Students of St Francis will always feel, no doubt, that the marked development in Dominic's idea of poverty in his later years owed something to Francis.[2] But strict ideas of poverty lay in the atmosphere they breathed, and Dominic never went further than the Waldensians or the Cathar *perfecti* with whom he had so long disputed. The idea that the right way to deal with the heretics was to ignore them, to walk all over Christendom—and beyond—and that the right way to run an

[1] Cf. the wise comment of Professor Knowles in *Blackfriars*, xxxix (1958), pp. 153–4.

[2] *Cf.* Knowles, *Religious Orders in England*, i, p. 149 and n. For a judicious statement of the argument for Dominican independence, see R. F. Bennett, *Early Dominicans*, pp. 33 ff.

Order was to abdicate: these were much more original notions, and in their pursuit Dominic (consciously or unconsciously) was imitating Francis. That much is certain; the rest each student will decide for himself.

A leader among the early Franciscans once observed that the Friars Minor should love the Preachers very much, because they owed much to them and had occasionally been shown by them what not to do.[1] There are reasons for thinking that Dominic may have returned the compliment by deliberately avoiding some of the most striking characteristics of the Franciscan movement. The Order of Friars Minor was the personal creation of its founder: 'After the Lord had given me brothers, no man showed me what I ought to do; but the Most High Himself revealed to me that I ought to live according to the teachings of the Holy Gospel. And I dictated a simple Rule in a few words, and the Lord Pope confirmed it for me.'[2] Obedience was as central to Francis' ideal as poverty—obedience to the pope, to the bishops, to the poorest priest: 'Holy obedience makes a man subject to all the men of this world, and not only to men but also to all beasts and wild animals, to do with him what they will—so far as is granted them by the Lord on high.'[3] But he remained the sole guiding spirit of his Order; the Rule, however much he might rewrite it, was the same Rule dictated to him by God; he repudiated papal privileges and relied until 1223 on purely verbal assent to his Rule.[4]

Francis' vision and his Rule were the sole stable authorities in his Order while he was alive. He was an unquiet man to live with, unpredictable, arbitrary, sometimes absurd;[5] he had a

[1] 'occasionaliter instruxerunt nos ad futura pericula precavenda' (Albert of Pisa in Thomas of Eccleston, *De adventu Fratrum Minorum in Angliam*, ed. A. G. Little, Manchester, 1951, p. 82).

[2] *Testament*, in *Opuscula S. Patris Francisci Assisiensis* (2nd edn., Quaracchi, 1941), p. 79.

[3] *Salutatio virtutum*, *Opuscula*, p. 21.

[4] In the *Testament*, Francis passes from the first to the last Rule without any indication that there was any difference between them: to him there was none, since both expressed in words God's revelation to him. For Innocent III's assent to the Rule, see H. Grundmann, *Die religiöse Bewegungen im Mittelalter*, 2nd edn., pp. 127 ff.

[5] As when he wandered into the woods when his cell was about to catch fire to avoid having to harm 'brother fire'; this story comes from an excellent

talent for anarchy which he used with all the inspiration and the guile of a great teacher to instruct his followers that they must learn to live according to the gospel, and not enjoy the comforts of the Law. The effect of this was to make his Order noted for its disorderliness, its tendency to fall apart; and to encourage his followers, like the followers of Mohammed, to support their various theories as to how the Order should be governed by telling stories about the founder. In Dominic's Order this was neither necessary nor possible—at least to the extent that it occurred among the Minors. When a Dominican General Chapter issued an admonition suppressing a passage in the legend of the saint, the friars were hardly doing even on a small scale what Bonaventure did on the grand scale; they were not plastering the cracks, but merely attempting to suppress a tale about the founder which they reckoned unedifying.[1] There was little danger of his becoming the centre of controversies in the Order. His intentions were too little known, and he had never attempted, after the revolution of 1217, to dictate to his followers in the way St Francis did. Strictly speaking, there was no rule save the rule of St Augustine; and even the constitutions which Dominic composed and promulgated in general chapters could have been changed, so far as we can tell, by any general chapter down to 1228.[2] It was in that year that Jordan of Saxony held the first *generalissimum* chapter, a grand affair (though even that was a remarkably compact body compared with the Franciscan general chapter), which laid down that certain clauses in the constitutions were entrenched and unalterable, and that none of the others could be changed except by the approving votes of three consecutive general chapters. It seems clear that the Order in the

source: *La 'Legenda antiqua S. Francisci'*, ed. F. M. Delorme, *La France franciscaine*, ii (Paris, 1926), nos. 49–50.

[1] *Cf. Acta Capitulorum Generalium O.P.*, i, *MOPH*, iii, p. 24; Moorman, *Sources for the life of St Francis*, pp. 141 ff., 148 and n.

[2] For the early constitutions, see above, p. 28 n. 2: I accept the general lines of Prof. Vicaire's reconstruction, though the evidence is not sufficient to make every detail secure, and we cannot tell what early canons were dropped before 1228. But Humbert de Romans specifically states that each individual chapter could make or abolish constitutions before 1228 (cited Mandonnet-Vicaire, ii, p. 207 n.). The first part of the Constitutions, detailing the internal life of the Order, was sometimes referred to, however, as a 'rule'.

early 1220s had been too free to change its rules and constitutions; and this emphasizes how completely, at the end of his life, the founder had submerged his own views and methods in those of his brothers. Dominic and Jordan could afford a representative system of government with much wider powers than those enjoyed by the Franciscan general chapter because they had no such sense of basic authority as Francis enjoyed. The Franciscans were blessed because God had spoken to Francis; the Dominicans reckoned that the Holy Spirit worked, in the long run, in the small committee of priors or elected representatives they called their general chapter. As Dominic had taken upon himself to spread the friars by an arbitrary decision, so by an act less dramatic but in a way equally revealing an impulsive faith, he abdicated his authority in his last two years more completely than ever Francis did. Once again, one cannot fail to observe his extraordinary humility.

Dominic, then, submerged his personality in the Order. So effective was this that it would seem that he was in danger of being forgotten. If these inferences have any force, we are compelled to suppose that in the early 1230s Jordan of Saxony was faced by a dilemma. As a faithful servant of Dominic he must have known that the saint had repudiated what would nowadays be called a 'personality cult'. At the same time he and Hugolino, now Pope Gregory IX, doubtless wished to do due honour to his memory and have him canonized; and for this a revival of interest, a decorous propaganda of his sanctity was needed. The older friars, furthermore, could not fail to observe that Thomas of Celano had done honour to Francis, while Dominic's memory was fading; so they made entreaty that something should be committed to writing while there was yet time. In the Order of Friars Minor the 1220s and even more the 1230s were an era of conflict, all the more confused because no clear parties existed at this date.[1] So far as we know conflicts in the Order of Preachers were stifled at birth; and when one considers how free they were to criticize their General, how powerful, in theory, was the General Chapter, one can only marvel at the diplomatic skill of the first two Masters General, Dominic and Jordan. My own view is that Jordan's *De principiis* is an illustration of this: that he wished to do honour to the saint without departing from Dominic's own

[1] See R. B. Brooke, *op. cit.*

wish to be submerged in the Order. This would at least explain why Jordan took all the responsibility for the book: he took the initiative out of the friars' hands so that he could give them the kind of book he felt was right for the circumstances. When Jordan wrote, Francis was vividly remembered as a human saint; several generations had to pass before he could become the ghostly thaumaturge of the *Fioretti* or the remote mystic of renaissance art. There were men alive in 1232–33 to whom Dominic was as vivid a memory as was Francis to his friends—and some of them gave witness in the canonization process, which for all its formal purpose is often a more lively document than Jordan's *De principiis*. Yet Jordan's Dominic is a man of conventional saintly virtues, whose intense humanity is already largely hidden. Jordan's successors added very little to his story, though Gerard of Fracheto and his helpers added to the number of his miracles, and the tradition that Dominic should appear as unlike Francis as could be was finally consummated in the revolting story of how he plucked a sparrow alive because it had the devil in it.[1]

In the end Dominic remains largely hidden from us. We can lift the curtain, but Dominic and Jordan swiftly and peremptorily lower it again. Yet this has the curious effect, not of diminishing, but of enhancing our sense of what the Dominicans owe to their founder. Lea thought that Dominic 'made less impression upon his contemporaries than his followers would have us believe'. I have tried to make clear why I think this may be the opposite of the truth.

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[1] *Miracula b. Dominici*, by Sister Cecilia, c. 10, ed. A. Walz, *Misc. Pio Paschini*, i (Rome, 1949), pp. 306 ff. (this claims to be an eyewitness account; but the historicity of these *Miracula* is very doubtful).

THE MENTAL WORLD OF HERNÁN CORTÉS

By J. H. Elliott, M.A., Ph.D., F.R.Hist.S.

READ 14 MAY 1966

SO many books and articles have been devoted to the life and career of Hernán Cortés that it may well seem presumptuous to add to their number. But there is still no satisfactory biography, and it is only quite recently that his writings—his 'letters of relation' to Charles V, his general correspondence, and his military and administrative directives—have been subjected to the close critical scrutiny which they deserve. In particular, Dr. Richard Konetzke has drawn attention to the constructive aspects of Cortés's career as the founder of a colonial society, while an Austrian historian, Dr. Viktor Frankl, has analysed with extraordinary ingenuity Cortés's idea of empire and his indebtedness to Spanish medieval traditions and ways of thought. Other important contributions have been made by Mexicans: Dr Manuel Alcalá, who has drawn an extended parallel between Caesar and Cortés, without, however, proving any direct influence of one on the other, and Srta. Eulalia Guzmán, whose annotated edition of the first two letters of relation is intended to expose the conqueror of Mexico as a consummate liar and a monster of depravity.[1] Although these four historians approach Cortés from very different standpoints, they have all shown how much can still be learnt about him from an examination of his writings, and how much remains to be discovered before we shall be able to see him in the round—not only as a military leader, but

[1] R. Konetzke, 'Hernán Cortés como poblador de la Nueva España', *Estudios Cortesianos* (Madrid, 1948), pp. 341–81; V. Frankl, 'Hernán Cortés y la tradición de las Siete Partidas', *Revista de Historia de América*, 53–54 (1962) and 'Imperio particular e imperio universal en las cartas de relación de Hernán Cortés', *Cuadernos Hispanoamericanos* (1963); M. Alcalá, *César y Cortés* (Mexico, 1950); Eulalia Guzmán, *Relaciones de Hernán Cortés a Carlos V sobre la invasión de Anáhuac* (Mexico, 1958). The writings of Cortés have now been collected in a single volume by Mario Hernández Sánchez-Barba, *Hernán Cortés. Cartas y Documentos* (Mexico, 1963). All quotations in this article are drawn from this volume, cited as *Cartas*.

also as a colonist and an entrepreneur, and as an unusually astute politician with a remarkable gift for putting old ideas to new uses in the unprecedented situation in which he found himself in Mexico.

Their work has also emphasized the need to set Cortés very firmly into the context of the society from which he sprang, the society of late medieval and early Renaissance Spain, for he at once mirrors the ideals and aspirations of that society, and shares the pattern of its development. Between 1485, the year of his birth, and 1547, the year of his death, Spain passed through a whole cycle of experiences which are strangely reflected in Cortes's personal career. He was born at a time when Ferdinand and Isabella had succeeded in imposing royal justice and royal authority on a society which had threatened to disintegrate under the pressure of conflicting individual ambitions. They had restored the community of the realm, and had helped to imbue it with that sense of confidence and purpose which would enable it to complete the reconquest of its own territory from the Moors and to embark on its career of overseas expansion in Africa, Italy, and the Antilles. The Castile of the Catholic Kings was a country which, while deeply attached to medieval traditions and values, was being stirred by Italian humanist ideals; and stirred, too by those aspirations for spiritual renewal and regeneration which were agitating all Europe in the later Middle Ages. This was the society from which Cortés came, and he retained its imprint to the end of his days.

Cortés left Spain for the West Indies in 1504, the year of Isabella's death, and did not return to it until 1528, when her grandson, Charles V, was firmly established on the Spanish throne. In the intervening period the carefully articulated society built up by the Catholic Kings was subjected to a series of severe strains, culminating in the revolt of the *Comuneros* between 1519 and 1521, the very years in which Cortés committed his own personal act of revolt against lawfully constituted authority, and went on to conquer Mexico for his imperial master.[1] The Spain to which he returned in triumph in 1528 was Erasmian Spain—a country painfully adjusting itself to a new historic role under

[1] See M. Giménez Fernández, *Hernán Cortés y su revolución comunera en la Nueva España* (Seville, 1948), which attempts to draw a parallel between the revolt of Cortés and that of the Comuneros.

the leadership of men fired by ambitious ideas of universal empire, and by Erasmian ideals of general reform. But already the universal ambitions of Charles and his advisers were clouded by the threat of heresy, and when Cortés came home for the last time, in 1540, the humanist Spain of his first visit had become deeply tinged by the sombre hues of the Counter-Reformation.

The life of Cortés therefore spans an extraordinarily rich and varied period of Spanish history—a period in which a reorganized and re-articulated medieval society, increasingly exposed to external intellectual influences, turns outwards to acquire an overseas empire, and finds itself endowed with a unique imperial and religious mission. But Cortés, while spanning the transition from Middle Ages to Counter-Reformation, seems also to reflect it in his own mental development. His correspondence, when read in the light of the political and intellectual pre-occupations of contemporary Spain, gives the impression of having been written by a man with exceptionally sensitive mental antennae, alert to detect the most subtle shifts of opinion in a world thousands of miles away.

This very sensitivity, however, makes it extremely difficult to trace the course of Cortés's intellectual development, and the problem is further complicated by the almost total absence of external evidence about his interests and attainments. It is known only that, as the son of *hidalgo* parents in Extremadura, he was sent at the age of fourteen to Salamanca where he remained for two years. There is some dispute about the way in which he was supposed to be spending his time at Salamanca, but it seems probable that he embarked on the study of Latin grammar with the intention of proceeding to the study of law, but then tired of his studies and returned home to Medellín, to the annoyance of his parents, who had hoped to see him equipped for a profitable legal career.[1] But there is no doubt that his two years in Salamanca, followed by a long period of training and experience as a notary, first in Seville and then in Hispaniola, gave him a working knowledge of Latin and a close acquaintance with the methods and the technicalities of Castilian law.[2] There is a story that, as a child, he was an acolyte in the church of Santa María in Medellín,

[1] See Salvador de Madariaga, *Hernán Cortés* (London, 1942), pp. 22–24.

[2] See Alcalá, *César y Cortés*, pp. 134–38, for examples of Latin quotations in Cortés's writings, and for the influence of Latin constructions on his style.

and that here he learnt the Psalms, but the relatively few Biblical allusions in his writings are drawn almost entirely from the New Testament, and his one direct quotation from the Gospels is produced (in Latin) with such a flourish as to induce some scepticism as to whether he was capable of producing many more: 'I even called to mind a passage from the Gospels which runs: "*Omne regnum in se ipsum divisum desolivatur*".'[1]

If his knowledge of the Bible, although very effectively exploited when the occasion demanded, tended to be sketchy, he was obviously well versed in the types of literature with which a late fifteenth-century Castilian *hidalgo* would normally expect to be acquainted. This meant, in particular, the legal codes of Castile, and especially the famous code of Alfonso X, the *Siete Partidas*, compiled between 1256 and 1263, and first printed in Seville in 1491. Dr. Frankl has convincingly shown the extent of Cortés's knowledge of the *Siete Partidas*, and his extraordinary skill in exploiting the *Partidas* to justify and legalize his own very difficult position after breaking with the governor of Cuba, Diego Velázquez, and setting out unauthorized on the conquest of Mexico.[2] Once Cortés's knowledge of the contents of the *Partidas* is accepted, whole areas of his thought are illumined, for the *Partidas*, with their references to Aristotle and antiquity, and their vivid definitions of such concepts as 'fame', 'treason', and 'tyranny', constitute at once an encyclopaedia of law and theology, and a code of military and legal conduct, capable of providing the Castilian *hidalgo* with an admirably coherent framework of ideas.

The other literary companions of a Castilian gentleman, besides the *Partidas*, were histories, chronicles, and romances of chivalry. The *conquistadores*' acquaintance with the romances is vividly attested by Bernal Díaz's account of the conquest of Mexico; and Cortés himself is quick to see the allusion when, on landing at San Juan de Ulúa, Puertocarrero quotes four lines from the ballad of Montesinos—an allusion which has recently been shown to express graphically Cortés's plan for vengeance against his mortal enemy, the governor of Cuba.[3] Equally well attested

[1] *Cartas*, p. 47.

[2] 'Cortés y la tradición de las Siete Partidas', *op. cit.* The Partidas constitute vols. II–IV of *Los Códigos Españoles concordados y anotados* (Madrid, 1848–51).

[3] Frankl, *op. cit.*, pp. 29–31.

by Bernal Díaz is the tendency of the *conquistadores* to compare their exploits with those of the Romans, as in Cortés's own speech to the troops during the Tlaxcala campaign: 'As for your observation, gentlemen, that the most famous Roman captains never performed deeds equal to ours, you are quite right. If God helps us, far more will be said in future history books about our exploits than has ever been said about those in the past.'[1] Here already was that sense of superiority to the achievements of antiquity which distinguishes the later phases of the Renaissance, and which was one day to be expressed in the dedication of a book to Cortés: 'you displayed so many new strategems in matters of war that it cannot be said that in any of them Your Excellency imitated the Ancients.'[2]

Whether Cortés himself had ever actually read any classical authors is not clear. It has been suggested, on the strength of a reference to 'necessity' in his fourth letter of relation, that he had read Livy, and was therefore acquainted with that idea of necessity which was to be so important to Machiavelli.[3] But it would hardly seem essential to have read Livy to produce the particular aphorism used by Cortés—'there is nothing like necessity for sharpening mens' wits' (*no hay cosa qué más los ingenios de los hombres avive que la necesidad*). Almost the same words are in fact used by a character in the famous contemporary novel, the *Celestina*, first published in 1499, when he says that there is no better 'sharpener of wits' (*avivadora de ingenios*) than 'necessity, poverty, and hunger'.[4]

There is indeed some danger that Cortés will be endowed with too elaborate an intellectual ancestry in the search for the origins of his ideas. He reels off a striking phrase such as 'there should be nothing superfluous (*cosa supérflua*) in all the earth'—a phrase which can be, and has been, traced back to the Aristotelian formula: *Natura nihil facit frustra*.[5] He uses it very skilfully as a justification for the forcible subjection of the Chichimeca Indians

[1] *Historia Verdadera*, i (Mexico, 1944), p. 260. Translated J. M. Cohen (London, 1963), p. 159.

[2] *Obras que Francisco Cervantes de Salazar a hecho, glosado, y traducido* (Alcalá de Henares, 1546). 'Diálogo de la dignidad del hombre', f. 4.

[3] Frankl, 'Imperio particular', pp. 32–33.

[4] *La Celestina*, ed. M. Criado de Val and G. D. Trotter (Madrid, 1958), p. 165.

[5] Frankl, 'Imperio', p. 19.

to the rule of Charles V, but where did he originally find it? The general cast of his thought, as might be expected, was Aristotelian and Thomist, but this phrase again was apparently one in contemporary use, for it is uttered by no less a person than Celestina herself (*ninguna cosa ay criada al mundo supérflua*).[1]

It would seem, on the whole, that Cortés had an extraordinarily quick ear and eye for the arresting phrase, and a genius for putting it to unexpected use. This tends to create an impression both of originality and of erudition, which is not always justified. He is capable, for instance, of beginning a letter to an oriental potentate with a resoundingly Aristotelian sentiment: 'It is a universal condition of mankind to want to know.' But this, too, was probably a commonplace of the times, and appears in the *Siete Partidas* in the form of 'all men naturally want to hear and know and see new things.'[2] His use of such phrases, and in particular the constant insistence in his letters of relation on the importance of 'knowing and inquiring' or of 'finding out the secret of things' (*saber el secreto*) have frequently been taken to display a typically Renaissance attitude to knowledge. Cortés's own intense thirst for knowledge is not in doubt, but it is worth noting that both these expressions appear in the instructions given him by Diego Velázquez when he entrusted him with the command of the expedition to Mexico.[3] It is entirely typical of Cortés that he should have seized on the words and tirelessly reproduced them in his letters to the emperor, in order to display his deep regard for the letter of the instructions which in other respects he was actively defying.

Perhaps only once is there anything approaching a plausible hint of first-hand acquaintance with a classical author. When a *residencia* was held against him in 1529 a witness alleged that he frequently heard him say that ' "if the laws had to be broken in order to reign, then broken they must be", and he also used to repeat "Caesar or *nihil*." ' The remark about the breaking of the laws derived originally from Euripides, and was quoted both by Cicero and by Suetonius in his life of Caesar. It would not be surprising if at some stage in his life Cortés had read Suetonius on

[1] *Celestina*, p. 141, and see F. Castro Guisasola, *Observaciones sobre las fuentes literarias de La Celestina* (Madrid, 1924), p. 33.

[2] *Cartas*, p. 478; *Siete Partidas*, Partida I, tit. 1, ley xix.

[3] *Cedulario Cortesiano* (Mexico, 1949), p. 14.

Caesar; but the evidence remains hearsay, and the fact that the chronicler Gonzalo Fernández de Oviedo, living in Santo Domingo, himself uses the quotation when describing Cortés's defiance of Velázquez, suggests that it enjoyed some currency among sixteenth-century Spaniards.[1]

These instances suggest something of the extreme difficulty involved in defining with any degree of precision the sources of Cortés's thought. The difficulty is hardly surprising, for Cortés, although an highly intelligent man with an instinctive capacity for literary craftsmanship, cannot be described as learned or well-read; and during his active life his reading was probably largely of a professional character, consisting of the Castilian legal codes and of those notarial and official documents which he taught himself to gloss and interpret with such consummate skill. Susceptible as he was to the influence of his environment, and adept at reproducing ideas and expressions which caught his attention, it is only possible to assess in the most general terms the important formative influences in his life. In particular, regrettably little is still known of local conditions in his native Extremadura during his childhood years,[2] and many of the military and administrative ordinances at present taken as examples of his organizing genius may well prove on closer investigation to be directly inspired by models deriving from Extremaduran conditions and from the circumstances of the war in Granada. The dominant figure in late fifteenth-century Extremadura, Don Alonso de Monroy, the Master of Alcántara, was probably Cortés's cousin, and Cortés's father had fought at his side in the fierce civil wars. Although

[1] 'Sumario de la Residencia tomada a Don Fernando Cortés', *Archivo Mexicano*, i (Mexico, 1852), p. 64; Fernández de Oviedo, *Historia General . . . de las Indias* (Biblioteca de Autores Españoles), vol. 118 (Madrid, 1959), p. 149. The original quotation reads: 'Si violandum est ius, regnandi gratia violandum est' (C. Suetoni Tranquilli, *Divus Iulius*, ed. H. E. Butler and M. Cary, Oxford, 1962, p. 14). That Cortés at least had a good stock of stories from classical history is shown by his apt allusion to the dispute between Marius and Sulla over the captured Jugurtha when his own captains were quarrelling over the captured Cuauhtémoc (Bernal Díaz, *Historia Verdadera*, ii, p. 299).

[2] Late fifteenth-century Extremadura, the home of so many *conquistadores*, deserves serious investigation. There is a pioneering article by Mario Góngora, 'Regimen señorial y rural en la Extremadura de la Orden de Santiago', *Jahrbuch für Geschichte von Staat . . . Latein-Amerikas*, ii (1965).

Monroy survived in exile until 1511, he had passed into legend long before his death, and much of the legend, as recounted by a contemporary biographer, reads almost like a preview of the greater career of the conqueror of Mexico.[1] There is the same style of military leadership; the same style of harangue to the troops; and there are even the same omens. Monroy's followers told him to turn back when his horse died under him, but he paid no attention to their warnings, because, in his biographer's words, 'the hour of his ill-fortune was at hand.' Cortés, too, refused to turn back when five of his horses fell as he left the camp one night at Cempoala: 'I held on my course, considering that God is more powerful than nature.' Where Monroy went on to disaster, Cortés came to no harm. His hour of ill fortune was still far away.[2]

The Extremaduran upbringing, the relationship with a legendary figure in Extremaduran life, and the typical *hidalgo* education in the chronicles, the romances, and the code of the *Siete Partidas*, were all, therefore, important formative influences on Cortés's career. So, too, were the Salamanca episode and the period of notarial training, which gave him his knowledge of Latin, his very considerable legal learning, and his skill in the drafting and interpretation of documents. Finally, there were the fifteen years spent in Hispaniola and Cuba as notary, secretary to the governor, municipal official and *encomendero*—years which gave him administrative and political experience, and a first-hand acquaintance with American conditions and the problems of a settler society. All these experiences helped to provide the intellectual equipment of the Cortés who set out in 1519 to conquer Mexico.

In leaving Cuba for Mexico, Cortés carried with him a strong conviction of the influence of *Fortuna* on the affairs of men. In his *Crónica de la Nueva España* Cervantes de Salazar tells how Cortés, while still a public notary in the little town of Azúa, near Santo Domingo, dreamt one night that suddenly his poverty was gone, and that he was dressed in fine clothes and waited on by innumerable retainers who addressed him with high-sounding titles of honour. 'And although', continues Cervantes de Salazar,

[1] Alonso Maldonado, *Hechos del Maestre de Alcántara Don Alonso de Monroy*, ed. A. Rodriguez Moñino (Madrid, 1935). For Cortés family relationships, see F. Gómez de Orozco, 'Cual era el linaje paterno de Cortés?', *Revista de Indias*, ix (1948), pp. 297–306.

[2] Maldonado, p. 106; *Cartas*, p. 43.

> he, as a wise man and a good Christian, knew that credit should not be given to dreams, he was none the less very happy, because the dream had been in conformity with his own thoughts. . . . They say that, after the dream, he took paper and ink, and drew a wheel with buckets. He wrote one letter on the full buckets, another on those that were being emptied, another on the empty ones, and another on those that were moving upwards, while on the ones at the top he placed a nail . . . When he had done this, he said to certain of his friends with unusual cheerfulness that either he would dine to the sound of trumpets, or perish on the gallows, and that now he began to know his fortune (*ventura*) and what the stars promised him . . .[1]

The image of Fortune's wheel was well known to late fifteenth and early sixteenth-century Spaniards, and 'adverse fortune suddenly turns her wheel' several times in the course of Bernal Díaz's history of the conquest of Mexico.[2] Cortés's wheel, however, has become the *noria*—the traditional water-wheel with hanging buckets to be found in Extremadura and other parts of Spain. Whether at that time this was a common conception of Fortune's wheel is not clear, although Celestina herself, in Rojas's novel, envisaged it in this form: 'We are like pots in a water-wheel . . . one up, and another down; one full, and another empty; it is fortune's law that nothing can continue any long time in one and the selfsame state of being.'[3] But the most important feature of the wheel for Cortés was that it could be stopped—a point he further emphasized when, tilting at the ring in Coyoacán after Mexico had fallen, he chose as his device a wheel of fortune and a silver figure of a man with a hammer in one hand and a nail in the other. The motto read: 'I shall hammer in the nail when I see that there is nothing more to possess.'[4]

[1] Vol. i (Madrid, 1914), pp. 120–21.

[2] *Historia verdadera*, ii, p. 67. For the idea of Fortune, see H. R. Patch, *The Goddess Fortune in Medieval Literature* (Harvard, 1927); José Antonio Maravall, *El Mundo Social de la Celestina* (Madrid, 1964), c. vii; Florence Street, 'The Allegory of Fortune . . . in . . . Juan de Mena', *Hispanic Review*, xxiii (1955). I am much indebted to Mrs Street for her advice on this subject.

[3] *Celestina*, p. 175 (translated James Mabbe, ed. H. Warner Allen, London, n.d., p. 150).

[4] 'Clavaré quando me vea do no aya más que posea'. 'Residencia', i. p. 64.

This belief that the wheel could be stopped in its revolution by hammering in a nail, suggests an attitude to Fortune not unlike that of Machiavelli. Fortune could, after all, be mastered by man; but this task needed divine help, for, as in Machiavelli's Florence,[1] Fortune was integrated as far as possible into a Christian world. Throughout Cortés's correspondence divine Providence is at hand to guide and govern. Nothing, he reminds the emperor, is impossible to God.[2] Battles are won, with God's help, against hopeless odds,[3] and on many occasions God 'mysteriously' comes to the aid of Cortés and his men.[4] But there exists in Cortés's mind a special relationship between God and Charles V. 'Since Your Majesty's childhood', he writes in his second letter, 'God has always taken care to direct your affairs.'[5] This divine favour reserved for the emperor is a matter of great moment to Cortés, for, as the loyal servant of the emperor, he could expect to share in the blessings that Providence showered upon his master. 'The royal good fortune (*real ventura*) of Your Majesty' is therefore a recurring theme in Cortés's letters, and he sees his own victories won 'with the help of God and the royal *ventura*.'[6]

But if Cortés looked on the divine and royal favour as a talisman for success, he knew that the man who aspired to master Fortune must possess innate qualities of resourcefulness and guile —those qualities which for Machiavelli helped to constitute *virtù*. The idea was familiar enough to Renaissance Spaniards, and nothing could be more Machiavellian than the remark of one of the characters in the *Celestina*: 'It is knowing the times and seizing the opportunity which makes men prosperous'.[7] Cortés, like the underworld figures of the *Celestina*, longs for the wealth that will enable him to crash the barriers of the social hierarchy, and bask in the pleasures enjoyed by the titled and the rich; and his chosen weapons for achieving this ambition were the same as theirs. He too must know the times and seize the opportunity, and this required not only native wit but also the wisdom that came of experience. There is in Cortés's correspondence a constant insistence on the importance of *experiencia*—that personal

[1] Felix Gilbert, *Machiavelli and Guicciardini* (Princeton, 1965), p. 41.
[2] *Cartas*, p. 44.
[3] *Cartas*, pp. 18, 41.
[4] *Cartas*, p. 97.
[5] *Cartas*, p. 52.
[6] *Cartas*, p. 104. *Cf.* Frankl, 'Cortés y la Tradición', p. 18.
[7] *Celestina*, p. 39.

and individual knowledge of men and of things which an increasing number of early sixteenth-century Spaniards were coming to regard as superior to the knowledge derived from traditional authority.[1]

There was no lack of resourcefulness in Cortés's approach to the conquest of Mexico, which was as much a political as a military operation, and one conducted simultaneously against the Aztec emperor and the governor of Cuba. The contemporary chronicler Fernández de Oviedo refers at one point to Cortés's capacity to 'construct romances (*novelar*) and devise schemes appropriate to a resourceful, astute, and cunning captain.'[2] Recent work on Cortés, particularly by Dr. Frankl and Srta. Guzmán, has helped to confirm his extraordinary skill in the constructing of romances and the devising of schemes. The first letter of relation, as Dr. Frankl has shown,[3] is a brilliant fictional reconstruction of the course of events leading up to the defiance of the governor of Cuba and the founding of Vera Cruz—a reconstruction which draws heavily on the political and juridical ideas embedded in the *Siete Partidas*. The governor, Velázquez, is painted in the darkest colours as a man consumed by greed and personal interest, whereas Cortés himself emerges as the faithful servant of the Spanish Crown and a staunch upholder of the common weal.[4]

But it is in his account of the confrontation with Montezuma that Cortés's powers of imagination and invention are revealed at their best. Although the whole episode remains deeply mysterious, it at least seems clear that Cortés's account of what passed between the two men should not be taken, as it has long been taken, at face value. In all probability, two distinctive layers of legend now surround the relationship between Cortés and Montezuma. The outer layer, which forms the basis of modern interpretations of the conquest of Mexico,[5] holds that Cortés was the unwitting beneficiary of an Aztec tradition that the priest-king

[1] See J. A. Maravall, *Los Factores de la Idea del Progreso en el Renacimiento Español* (Madrid, 1963), pp. 109–31. *Cf.* the Florentine 'experientia, que rerum est magistra' (Gilbert, *Machiavelli*, p. 39).

[2] Fernández de Oviedo, *op. cit.*, vol. 120, p. 42.

[3] 'Cortés y la Tradición'.

[4] *Cartas*, pp. 26–27; P. Mariano Cuevas, *Cartas y otros documentos de Hernán Cortés* (Seville, 1915), p. 5.

[5] *E.g.* Madariaga, *Hernán Cortés*.

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Quetzalcóatl would one day return from out of the east and reclaim his own. No evidence has apparently been found, however, to prove the existence of any pre-conquest tradition of Quetzalcóatl leading his followers to the land of Anáhuac. It is possible that the stories of a return from the east, like those of the omens which paralysed Montezuma's powers of decision, sprang up only *after* the conquest; and the identification of Cortés with Quetzalcóatl (who is never mentioned in the writings of Cortés), may first have been made in the 1540's by the Franciscans Motolinía and Sahagún.[1]

But wrapped within this legend lies another, for which Cortés himself may have been largely responsible—a legend similar in theme but less specific in its details. Cortés retails two speeches by Montezuma,[2] both of them so improbable in content and tenor as to suggest that they were founded more on fantasy than facts. The two speeches are couched in tones quite alien to an Aztec but familiar enough to a Christian Spaniard; for they subtly combine the themes of the coming of a Messiah and the return of a natural lord to his vassals, in order to lead up to the grand climax of Montezuma's renunciation of his imperial heritage into the hands of Charles V. 'We give thanks to our gods', says Montezuma, 'that in our time that which was long expected has come to pass.' Srta. Guzmán has shrewdly pointed out how this whole passage echoes the strains of the *Nunc Dimittis*.[3] But the New Testament analogies do not end here. Montezuma ends his first speech of welcome with the dramatic gesture of lifting his clothes to show Cortés his body, saying: 'you see that I am of flesh and bones like yourself and everyone else, mortal and tangible.' Does not this contain overtones of Jesus's words to the disciples ('a spirit hath not flesh and bones as ye see me have') and of Paul and Barnabas at Lystra ('we also are men of like passions with you')?

It is hard to avoid the impression that Cortés was drawing on all his very considerable reserves of imagination in order to paint for Charles V a solemn and spectacular picture of a scene that may never have occurred. If the scene had a faintly Biblical set-

[1] Eulalia Guzmán, *Relaciones*, p. 223; Henry R. Wagner, *The Rise of Fernando Cortés* (Berkeley, 1944), pp. 187–98.

[2] *Cartas*, pp. 59–60, 68–69; Guzmán, pp. 221–30, 276–81.

[3] Guzmán, p. 279.

ting, it would be all the more impressive, especially as Montezuma's forefathers were now in the process of being endowed with distant Christian origins; and, with a nice irony, Cortés introduces his account of Tenochtitlan with words that themselves have a Biblical ring: 'I know that [these things] will seem so remarkable that they cannot be believed, for what we behold with our own eyes, we cannot with our understanding comprehend.'[1] But if Cortés drew on the Bible for his general setting, and on Castilian legal codes for the ideas of suzerainty and vassallage which he put into Montezuma's mouth, there still remains a third crucial element in the story—the myth of the ruler returning from the east. It has been suggested that Cortés heard some such story from the Indians in the Antilles,[2] but it seems equally possible that he heard it on his march to Mexico, and stored it up for future use. According to Bernal Díaz, two *caciques* at Tlaxcala told Cortés of a prophecy that men would come from the region where the sun rises and would subjugate the land.[3] If so, the prophecy may have related not to Quetzacóatl but to Huitzilopochtli, the god of war, who appears in the writings both of Cortés and Bernal Díaz, under the guise of 'Ochilobos'. In a letter written by Don Antonio de Mendoza, the first viceroy of New Spain, to his brother, it is specifically stated that the Aztecs welcomed Cortés thinking that he was 'Orchilobos'—not Quetzalcóatl.[4] Fernández de Oviedo, commenting on the letter, disbelieves the stories both of Orchilobos coming from the north-east, and of Cortés being mistaken for him; but this does not affect the possibility that Cortés picked up some local legend, which he then proceeded to embellish and turn to account with his customary skill.

Whatever the exact origins of the myth of the returning ruler, the whole Montezuma episode, as related to Charles V, bears witness to Cortés's remarkable fertility of invention. This creative ability, the capacity to build on a grand scale, often starting from the most slender foundations, is perhaps the most striking of all the characteristics of Cortés. It carried him through the delicate problems involved in the defiance of Velázquez; it carried him

[1] *Cartas*, p. 71. *Cf.* Matthew 13:14 ('Hearing ye shall hear, and shall not understand; and seeing ye shall see, and shall not perceive').

[2] Guzmán, pp. 223–25.

[3] *Historia Verdadera*, i, p. 288.

[4] *op. cit.*, vol. 120, pp. 245–47.

through the conquest of Mexico itself; and it inspired his approach to the work of reconstruction when the Aztec empire had fallen.

His plans for the New Spain to be established on the ruins of the old Mexico were deeply influenced by his experiences in the Antilles where he had seen the Indian population destroyed.[1] A repetition of the Antilles experience must at all costs be avoided, and he wrote, like the great Renaissance builder he was, of the conservation of the Indians as being 'the cement on which all this work has to be built'.[2] But behind his schemes for the creation of an ordered society of Spaniards and Indians lay a vision which he had borrowed from the friars. It was in August 1523 that the first three Franciscan missionaries (all Flemings) arrived in Mexico, to be followed in May 1524 by the famous 'twelve apostles' headed by Fray Martín de Valencia. In the fourth and fifth letters of relation, dated October 1524 and September 1526, there are clear signs of Franciscan influence on Cortés's thought. The Franciscans, the majority of whom seem to have been less influenced by Erasmus than by Italian apocalyptic traditions and the doctrines of Savonarola,[3] arrived with a burning desire to establish, in a Mexico still uncorrupted by European vices, a replica of the church of the apostles. Cortés, in the first of his letters, had emphasized the importance of informing the pope of his discoveries, so that measures could be taken for the conversion of the natives.[4] But now, in his fourth letter, he couples his pleas for assistance in the work of conversion, with an attack on the worldliness of the church and the pomp and avarice of ecclesiastical dignitaries. His diatribe, so typical of contemporary European protests against the wealth and corruption of the church, is clearly inspired by the friars, for whom he requests exclusive rights in the conversion of Mexico. It is the Franciscans, too, who inspire the prophecy in the fifth letter that there would

[1] *Cartas*, p. 351 (*Ordenanzas de buen gobierno*, 1524).

[2] *Cartas*, p. 397 (*Memorial de servicios*, 1528).

[3] J. A. Maravall, 'La Utopia político-religiosa de los Franciscanos en Nueva España', *Estudios Americanos*, i (1949), pp. 199–227. For Cortés and the Franciscans, see Fidel de Lejarza, 'Franciscanismo de Cortés y Cortesianismo de los Franciscanos', *Missionalia Hispánica*, v (1948), pp. 43–136.

[4] *Cartas*, p. 25.

arise in Mexico a 'new church, where God will be served and honoured more than in any other region of the earth.'[1]

The Franciscans provided Cortés with an enlarged vision, not only of the new church and the new society to be built in Mexico, but also of his own special role in the providential order. He had already, in his first letter, been careful to insist that God had arranged the discovery of Mexico in order that Queen Juana and Charles V should obtain special merit by the conversion of its pagan inhabitants.[2] It followed from this that he himself, as the conqueror of Mexico, enjoyed a special place in the divine plan. The attitude of the Franciscans was bound to encourage him in this belief, for to them he inevitably appeared as God's chosen agent at a vital moment in the ordering of world history—the moment at which the sudden possibility of converting untold millions to the Faith brought the long-awaited millenium almost within sight. It was, therefore, with the concurrence of the Franciscans that Cortés could now designate himself as the 'agency' (*medio*) by which God had been pleased to bring the Indians to an understanding of Him.[3]

Since the Franciscan vision was a world-wide vision, it is not surprising that Cortés received from the Franciscans a fresh encouragement to look beyond the confines of Mexico, once its conquest was achieved. On his ill-fated Hibueras expedition of 1524–26 he was accompanied by two Flemish Franciscans, one of whom was Juan de Tecto, a distinguished theologian and a former confessor of Charles V.[4] It was perhaps Tecto's first-hand acquaintance with the imperial ideology of the Emperor's advisers and with Erasmian currents of thought in his native country, which furnished Cortés with his new vision of a world empire subject to a Charles V who would become 'monarch of the universe'—an empire which he himself would help to found by pressing on from Mexico, across the Pacific to the East.[5] The vision was a complex one, compounded as it was of Cortés's own dreams of the conquest of Cathay, Erasmian and Imperial dreams of a universal empire, and Franciscan dreams of the conversion

[1] *Cartas*, pp. 238–39, 318. [2] *Cartas*, p. 25. [3] *Cartas*, p. 241.

[4] Gerónimo de Mendieta, *Historia Eclesiástica Indiana* (ed. Mexico, 1870), p. 606.

[5] *Cartas*, pp. 320 and 482. For the evolution of Cortés's idea of empire, see Frankl, 'Imperio'.

of mankind as the essential prelude to the ending of the world. He pursued it for year after year, but, like some will-of-the-wisp, it persistently eluded him, for already by 1526 it seemed that his luck was gone.

There seems no reason to doubt that his harrowing experiences on the Hibueras expedition permanently changed Cortés, giving him a new awareness of the inscrutability of Providence and the impotence of man. The fifth letter of relation, which describes the expedition, is very different in spirit from those that preceded it. The phraseology is that of a man who has passed through a deep spiritual ordeal, which has left him at once with a sense of his own unworthiness and of the infinite power of God. Gone is the confidence which, seven years earlier, had enabled him to press on at Cempoala in spite of the misfortune to the horses. Now, when his ship is forced back to port three times, he sees this as a signal from heaven, and abandons his plans for return.[1] Gone, too, is the earlier confidence in the unbounded powers of man. In a language very different from that of his earlier letters, he writes: 'no wit of man could ever have found the remedy, if God, who is the true remedy and succour of those in affliction or want, had not provided it.'[2]

Fortune, after all, was not so easily to be commanded, and, from the time of the Hibueras expedition, it became clear that the wheel had begun its inexorable downward turn. Thwarted by royal officials and dogged by royal ingratitude, he wrote bitterly to his father in 1526: 'I had rather be rich in fame than in wealth.'[3] Although his fame was anyhow assured, he soon found a group of men both ready and able to cultivate it for him, for on his return to Madrid in 1528 he struck up a friendship with the Polish ambassador to the Imperial court, John Dantiscus, a friend of Copernicus and the centre of a wide humanist circle which included Erasmus and Valdés. The friendship was duly celebrated by Dantiscus in a Latin poem written after Cortés had gone back to Mexico: 'Great Cortés is far away, the man who discovered all these huge kingdoms of the New World. He rules beyond the equator as far as the star of Capricorn, and though so far away, he does not forget me.'[4]

[1] *Cartas*, pp. 304, 460. [2] *Cartas*, p. 257. [3] *Cartas*, p. 468.

[4] *Ioannis Dantisci poetae laureati carmina*, ed. Stanislas Skimina (Cracow, 1950), carmen xlix, lines 85–90. For Dantiscus, see A. Paz y Mélia, 'El

This flattering interest of the humanists in the conqueror of Mexico was fully reciprocated by Cortés in the last years of his life when, in retirement in Madrid, his house became the centre for an 'academy' holding regular discussions on matters of humanist and religious concern.[1] The circle of intellectuals who sought the company of Cortés did much to perpetuate both his fame and his ideas. There was Sepúlveda, whose discussion of the Indian question may well owe much to conversations with him.[2] There was Gómara, his first biographer, who transformed him into a typical hero of Renaissance historiography.[3] There was, too, that minor but interesting figure in the Spanish literary world, Cervantes de Salazar, who in 1546 dedicated to Cortés a dialogue on the dignity of man.[4] The dedication, couched in suitably fulsome terms, presents Cortés to the world exactly as he must have wished. It contains the obligatory reference to his distinction both in arms and letters, and the inevitable comparison with Alexander and Caesar; and it manages incidentally to propagate a new Cortés legend—that he burnt his ships instead of beaching them after landing at Vera Cruz.[5] But it also includes a comparison even more flattering than that with the heroes of antiquity, for the

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embajador polaco Juan Dantisco en la corte de Carlos V', *Boletín de la Academia Española*, xi and xii (1924–25). Dantiscus's diplomatic correspondence was published in *Acta Tomiciana* (12 vols., ed. S. Gorski, Posnan, 1855–1901), but there is no trace of the letters to or from Cortés.

[1] Madariaga, *Cortés*, p. 482; Pedro de Navarra, *Diálogos de la preparación de la muerte* (Tolosa, 1565), f. 41.

[2] Angel Losada, 'Hernán Cortés en la obra del cronista Sepúlveda', *Revista de Indias*, ix (1948), pp. 127–69.

[3] Ramón Iglesia, *Cronistas e Historiadores de la Conquista de México* (Mexico, 1942), pp. 100–103; H. R. Wagner, 'Francisco López de Gómara and his works', *Proceedings of the American Antiquarian Society*, 58 (1948), pp. 263–82.

[4] See above p. 45 n. 2.

[5] For the legend of the burning of the ships, see especially F. Soler Jardón, 'Notas sobre la leyenda del incendio de las naves', *Revista de Indias*, ix (1948), pp. 537–59. Soler Jardón suspected that the legend of the burning originated in the desire to compare Cortés with classical heroes, but failed to find any reference earlier than the 1560s. If, as seems possible, Cervantes de Salazar originated the legend, at least in its written form, he reverted to fact and described the ships as being beached in his *Crónica de la Nueva España*, which he began writing some thirteen years after the publication of the dedication to Cortés.

role of Cortés among the pagans of Mexico is compared with that of St Paul in the primitive church.

At this point the humanists made common cause with Cortés's other band of admirers, the friars. The Franciscans, as they were well aware, owed him much, and they repaid the debt by representing him in their histories of the conquest as the man chosen of God to prepare the way for the evangelization of mankind. But the debt of Cortés to the Franciscans—a debt generously acknowledged in his last will and testament—was no less great, for, at a time when humanist Spain was only just embarking on its subtle transmutation into the more complex Spain of the Counter-Reformation, they had done much to add a new religious dimension to his world. And no world was so rich in imagination and so infinitely adaptable as the mental world of Hernán Cortés.

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THE FRANCHISE OF RETURN OF WRITS

The Alexander Prize Essay

By M. T. Clanchy, M.A., Ph.D.

READ 11 JUNE 1966

RETURN of writs has been considered an essential privilege of the greater liberties in medieval England, because it entitled liberty-holders to exclude the sheriff and hence to execute royal writs through their own bailiffs.[1] Maitland construed it thus when discussing borough privileges, and again when he included it among the powers of lords exercising 'the highest justice'.[2] Although return of writs had acquired this meaning by the time Edward I died, neither the king's lawyers nor liberty-holders understood it in this way in the thirteenth century. Each side interpreted it differently. The conflict which ensued has attracted little attention hitherto, yet return of writs can only be understood in its context. This struggle has also a wider significance, as it illuminates the attempts of Henry III and Edward I to impose a new definition of royal sovereignty on liberty-holders. The present paper will argue that the franchise of return of writs was the product of conflict between king and magnates.

From the reign of William I onwards liberty-holders had been entitled to exclude sheriffs or other royal officers by non-intervention (*non intromittat*) clauses in charters.[3] Others had the same privilege by prescription. The prototype of common-law writs, the writ of right patent, respected such privileges by directing the plaintiff's lord to do him justice. But the parallel development

[1] I am grateful to Professor Helen Cam for help in preparing this paper. To avoid ambiguity a distinction is made throughout between *franchise* and *liberty*. *Franchise* means a royal privilege enjoyed by a subject, whereas *liberty* describes an aggregate of such privileges or the area within which they are enjoyed.

[2] *The History of English Law before the Time of Edward I*, 2nd edn. (Cambridge, 1898), i, pp. 644–45, 583.

[3] Helen Cam, *Law-Finders (and Law-Makers in Medieval England)* (1962), p. 31, n. 5.

of writs close, addressed to sheriffs irrespective of lords' privileges, meant that a secret (close) order to a sheriff became an alternative to an open (patent) directive to a lord. Evidence survives from John's reign onwards of sheriffs and liberty-holders working out solutions to this problem. Sometimes the liberty's bailiffs were permitted to execute the sheriff's writ themselves by making the necessary summons or attachment. The borough of Kingston-on-Thames was allowed this privilege in 1219.[1] The bishop of Bath in 1220[2] and the archbishop of Canterbury in 1227[3] claimed modifications of this procedure, by which the liberty's bailiffs and the sheriff's bailiffs made the attachments together. Another solution was to send the writ itself to the liberty-holder. In 1198 the Gloucestershire sheriff had forwarded a writ to the constable of Bristol, and in 1201 the lord of Bristol, Robert Berkeley, refused to make a summons 'without the original writ'.[4] At Richmond in 1218 the earl of Chester's bailiffs said that the sheriff ought to send royal writs to them for execution, but they could show no warrant for this.[5] By 1252 they would not 'do anything themselves without an original writ of the king's such as is sent to the sheriff of Yorkshire',[6] *i.e.* they now claimed that 'Richemundskyre' was a private shire. In 1221 the steward of the abbot of St Albans was twice noted to have the writ.[7] In 1248, however, a writ concerning this liberty was endorsed *Transcrib' ballivo libertatis Sancti Albani*, and again in 1266.[8] Evidently the abbot's bailiffs now received a transcript from the sheriff instead of the writ itself. Matthew Paris of St Albans copied a transcript of this sort into his chronicle in 1253.[9]

The St Albans arrangement had been reached earlier elsewhere. One of the first common-law writs close extant (*c.* 1200) is endorsed *Transcribatur ballivo Wi hundr'*,[10] Wye hundred in Kent being an immunity of Battle abbey. In a plea touching the bishop

[1] *C(uria) R(egis) R(olls)*, viii, p. 21. [2] *Ibid.*, ix, pp. 134, 137.

[3] F. A. Cazel, 'The Last Years of Stephen Langton', *Eng. Hist. Rev.*, lxxix (1964), p. 675.

[4] Bench Roll printed by Pipe Roll Soc., *N.S.* 31 (1955), p. 107. *C.R.R.*, ii, p. 79.

[5] *Yorks(hire) Eyre, (1218–19)* (Selden Soc., 56, 1937), no. 1145.

[6] *Cal. Inq(uistions) Misc(ellaneous)*, i, no. 131. [7] *C.R.R.*, x, pp. 2, 9.

[8] Writ files J.I. 4/1/1, 112 and K.B. 136/1/4, 6. See p. 63, n. 2, below.

[9] *Chronica Majora* (Rolls Series, 1882), vi, p. 255.

[10] *Pleas before the King or his Justices* (Selden Soc., 67, 1948), i, no. 3530.

of Durham's Yorkshire liberty in 1218–19 the sheriff sent his clerk to the bishop with a transcript (*cum transcripto*) of the writ, and as a result the bishop exonerated the sheriff from responsibility.[1] In a plea touching the bishop of Ely's Hertfordshire liberty in 1220 the defendants complained that the writ had been tampered with. The sheriff replied that he had received it intact and had passed it on to his undersheriff, who had no clerk and had therefore handed it over to a certain Henry son of Aucher 'to transcribe, so that he might send a [or, the] form (*formam*) to the bishop of Ely's bailiff to do execution.'[2] Sending a copy rather than the writ itself was preferable from the sheriff's point of view (even if literate clerks were scarce), as he, the adressee, was ultimately responsible for producing the writ in court. The liberty-holder, on the other hand, must have viewed the growth of this practice with misgiving because it jeopardized his *non intromittat* privileges. This may explain why Robert Berkeley had refused to act without the writ itself in 1201 and why in the same year the bailiffs of Lincoln claimed their liberty despite a rehearsal of the writ being sent them.[3] In 1204 Cirencester abbey obtained a charter containing a *non intromittat* clause with the rider 'excepting summonses which the abbot and canons receive by the hand of the sheriff and subsequently execute.'[4] These words recognized that the sheriff now intervened to the extent of acting as an intermediary. Clause 34 of Magna Carta, restricting the use of the writ *precipe*, should perhaps be interpreted in the context of this problem, as its net result was to provide lords with prohibitions *de non intromittendo*.[5]

The sheriff's authority was further extended by the writ *non omittas*, a court order overriding a recalcitrant liberty. This procedure seems to have been invented in the Norfolk–Suffolk shrievalty early in John's reign, since the first fourteen references to it emanate from there, as do all references except two before 1221 (Appendix A, p. 80). More particularly, the first five references, and ten of the first twenty, concern the earl of Arundel and his kinsmen the earls Warenne. In 1207 Arundel brought an

[1] *Yorks. Eyre*, nos. 251, 1125.
[2] *C.R.R.*, ix, pp. 340–1. [3] *Ibid.*, ii, p. 70.
[4] *Rotuli Chartarum* (Record Commission, 1837), p. 132.
[5] M. T. Clanchy, 'Magna Carta, Clause Thirty-Four', *Eng. Hist. Rev.*, lxxix (1964), pp. 546–7.

action against the sheriff for entering his liberty,[1] but a week later the earl Bigod complained that all the jurors in an assize brought against him by Arundel's serjeant were suitors from Arundel's liberty and some were also men of his son-in-law, the earl Warenne.[2] The repeated refusal of Bury St Edmunds to execute sheriff's precepts (eight references before 1221) started in the time of Abbot Samson, that formidable upholder of the privileges of his house.

Like *non omittas*, the term 'return of writs' emanates from the Norfolk–Suffolk shrievalty. The first four references come from there,[3] as do twelve of the first twenty (Appendix B, p. 81). Most of these relate in particular to the justiciar, Hubert de Burgh, native of Norfolk and titular sheriff of the two counties from 1217 to 1227. He was doubtless responsible for depriving his rival, the legate Pandulf bishop elect of Norwich, of return of writs in 1221–2 (B2, B3), so soon after procuring his fall. He, too, seems to be behind the similar harassing of John of Fountains, bishop of Ely (B4, B6–8), who was asked in 1224 'by what warrant' he had 'return of writs close' (B7), and who (according to his successor) 'could have neither liberty nor court' (B10).[4] Yet Hubert's brother Geoffrey, who succeeded Fountains as bishop in 1225, was allowed return of writs only two days after his consecration (B9, mandate dated 31 June), although no inquest was appointed to investigate the matter until 15 October (B10, B11).

Appendix B also shows that return of writs was an uncommon term before 1250 and that it developed in controversies with four liberties in particular: Norwich, Ely, Abingdon and Canterbury. It was referred to in only three charters, granted to Abingdon (B15), Ely (B18) and Westminster (B24). Because the term was new, some of the early references are careful to explain its meaning. In 1223 the abbot of Abingdon complained that the sheriff refused to return writs (*retornare brevia*) touching his liberty of Hormer hundred, and he profferred 'several returns of the king's writs (*plura retorna brevium domini Regis*) sent by the sheriff to the abbot'. The sheriff denied that he should send any return to

[1] *C.R.R.*, v, p. 12. [2] *Ibid.*, pp. 33–4.

[3] For the abbot of Ramsey's Norfolk liberty, *cf. Cartularium Monasterii de Rameseia* (Rolls Series, 1884), i. p. 261.

[4] *Cf.* E. Miller, (*The Abbey and Bishopric of*) *Ely* (Cambridge, 1951), pp. 216–17.

the abbot (*aliquod retornum mittere*), but the court ordered him to make returns of writs in future (*retorna brevium decetero*) (B5). The 'return of a writ' is evidently the copy of it sent to the liberty-holder.[1] It is synonymous with the *transcriptum* referred to by the Yorkshire sheriff in 1218–19 or the *forma* of the Hertfordshire sheriff. To 'return' a writ is to rehearse it for a liberty-holder. An Oxfordshire reference of 1228 (B12) confirms this: Engelard de Cigogné is to have 'return of the king's writs . . . according to the tenor of the same writs.' The abbot of Abingdon's charter of 1230 repeats the formula 'according to the tenor of our writs'. The abbot of Westminster's charter of 1243 (B24), glossing a *non intromittat* clause obtained in 1235, allows him 'all returns of our writs', so that no sheriff or bailiff may execute writs in his lands 'except through returns of the same writs made to the abbot.'[2]

This use of 'return' is confirmed by sheriffs' endorsements on early surviving writs of Henry III and Edward I,[3] examples of which are given in Appendix C (*infra* p. 82). The noun *returnum* often denoted the transcript sent to the bailiff, who is said to 'execute the return' (C1, C3). C3, concerning property in a suburb of Dunwich, makes this meaning clearest: the conveyor of the return failed to deliver it to the bailiff and so it 'perished'.[4] The verb *returnare* means rehearse. An endorsement saying that a writ has been 'returned' to a liberty's bailiff, who has failed to

[1] A few 'returns' survive from Henry III's reign in *Cal. Inq. Misc.*, i, nos. 523, 469, 2079, 254, 274 (chronological order). The earliest one (*c.* 1242) concerns Hormer hundred.

[2] (*Cal.*) *Charter Rolls, 1226–57*, p. 209. The official paraphrase of B24 is inaccurate, as the manuscript reads 'nisi per retorna eorundem brevium facta eidem Abbati' (C. 66/53, m. 8).

[3] The few extant writ files of Henry III (*cf. C.R.R.*, xiv, p. 535) have only recently become available for inspection in the Public Record Office, and I am grateful to Mr C. A. F. Meekings for an introduction to them. The following have been consulted: J.I. 4/1/1 (Berkshire eyre, 1248); J.I. 4/1/2 (Roger de Thurkelby's Assize Writs, 1250–56); K.B. 136/1/3 (*Coram Rege*, 1257); *ibid.*, 1/4 (1266); *ibid.*, 1/5 (1272); C.P. 52/1/1A (Bench, 1272); E. 202/1/1 (Exchequer, Henry III: miscellaneous years); *ibid.*, 1/2 (1260). For Edward I's reign I have used the unsorted exchequer writs in box E. 202/1.

[4] In 1293 the conveyors of a return to the Dunwich bailiffs claimed to be royal messengers (*Select Cases in the Court of King's Bench* (Selden Soc., 57, 1938), ii, p. 144).

reply (C2, C4), cannot mean that the actual writ was delivered to the bailiff, as it would not then have survived to have the endorsement made on it. The endorsements also show that sheriffs' offices attached little importance to the word 'return' itself. No consistent distinction was made between *preceptum* (C1), *mandatum* (C4) and *returnatum* (C2, C4).[1] A Wiltshire clerk, making two successive entries on C4, used *retornatum* in the first instance and *mandatum* in the second in precisely the same context. He was careful, however, to clarify his meaning in either case by adding *secundum formam istius mandati* and by including the formula *in quam libertatem vicecomes non habet ingressum*. The right to exclude the sheriff was the essence of the privilege, not the use of the word 'return'. A Hampshire clerk described the sheriff's position exactly when he wrote that the sheriff had no entry into the liberty 'except through the return of the writ' (C2). Whether 'return' was used and how it was used apparently depended on the practice obtaining in different sheriffs' offices, and to a lesser extent on the personal taste of the clerk making the endorsement. For example, on the *Coram Rege* files of 1257 and 1266 some writs have '*return*' endorsed at the foot, all of which are addressed to the sheriff of Wiltshire.[2] The Hampshire formula (C2) is repeated on another writ from the same term concerning the city of Winchester,[3] but has not been found elsewhere. Another formula also obtained in Hampshire, however: 'Returnum istius brevis factum fuit ballivis'.[4] C1's formula appears on two other writs on the same file endorsed in the sheriff of Norfolk and Suffolk's office[5] and again on nine later writs from that area,[6] but was not used by the clerk endorsing C3.

Return of writs became a franchise of national importance because of the initiative of Henry III. On 7 October 1250 he

[1] Two other variations have been found: '*Aturnatum* est ballivo de Hornemere' (J.I. 4/1/1, 89) and '*Demandatum* fuit ballivo de Holdernesse qui habet retorna brevium' (K.B. 136/1/5, 19).

[2] K.B. 136/1/3, 35, 36, 37, 38, 86; 1/4, 13, 14.

[3] C.P. 52/1/1A, Part 2, 20.

[4] *Ibid.*, Part 1, 13/3; E.202/1/2, 5, 6, 7.

[5] E. 202/1/2, 14, 16.

[6] C.P. 52/1/1A, Part 2, 64; E. 202/1, files for 3 Edw. I, 2, *venire facias* in Yarmouth. The same formula omitting *et execucionem eorundem*: C.P. 52/1/1A, Part 1, 25; Part 2, 65; Part 3, 44, 45, 46; E. 202/1, files for 3 Edw. I, 2, seizure of chattels in the liberty of St Ethelreda, *venire facias* in Orford.

took the unprecedented step of addressing all the sheriffs of England assembled in the exchequer.[1] Concluding a long lecture, ordering them (among other things) to inform him immediately of any blasphemers or of any magnates oppressing their men, he warned them against making return of his writs to anyone without warrant. Since such a franchise pertained especially to the royal crown, its holders must either have his charters or have enjoyed it from ancient times (*ab antiquo*). On 29 April 1252 king Henry again entered the exchequer and probably ordered all liberty-holders to warrant their privileges by charter.[2] In the same year, according to Matthew Paris, he told the master of the Hospitallers that he could, and would, revoke his own and his predecessors' charters just as the pope did.[3] This explains why the boroughs of Canterbury and Colchester obtained charters specifically referring to return of writs later in 1252,[4] and why Waltham abbey and the chapter of St Peter's, York, got similar grants before Henry's departure for Gascony in the summer of 1253.[5] A few weeks after his return, sitting in the exchequer in Hilary term 1255, the king required the bishop of Norwich's steward to show charters, if he had any, by which he claimed a 'monstrous fish' as wreck of the sea, since no one was entitled to wreck except by royal grant.[6] That summer he launched a nationwide inquest into franchises, which included a question: 'Concerning those who have return of the lord king's writs, namely whether they have that return by royal concession, or by permission of sheriffs or of other bailiffs.'[7] Another question concerned 'those who claim to have liberties without a royal charter.'[8]

As a result, between July 1255 and March 1257 a further twenty-two boroughs obtained charters allowing them return of writs by name.[9] The first of these was granted to Nottingham on

[1] Memoranda Roll E. 368/25, m. 2.

[2] E. 368/26, m. 8. The doubt arises because part of the memorandum has been erased.

[3] *Chronica Majora*, v, p. 339.

[4] A. Ballard and J. Tait, (*British*) *Borough Charters*, (*1216–1307*) (Cambridge, 1923), p. 171.

[5] *Charter Rolls*, *1226–57*, p. 427; *ibid.*, *1300–26*, p. 58 (*inspeximus*).

[6] E. 159/28, m. 9d; *cf.* Paris, *Chronica Majora*, v. p. 488, and *Close Rolls*, *1254–6*, p. 44.

[7] *Annales Monastici* (Rolls Series, 1864), i, p. 338. [8] *Ibid.*

[9] Ballard and Tait, *Borough Charters*, pp. 171–2. Tait omitted Kings Lynn.

20 July when the king himself was there.[1] Oblations ranging from 40 to 120 marks were made for ten of these charters, the money being payable into the wardrobe instead of the exchequer by the king's order.[2] In 1256 an exchequer memorandum marginated *Provisio domini Regis*,[3] which was noted also by Matthew Paris,[4] increased the penalties for boroughs failing to account for their farms. Another note, marginated *Memorandum pro Rege*,[5] records that in Michaelmas term 1256 the mayor of Northampton and another burgess recognized before the barons of the exchequer that they had always had return of writs. When asked by what warrant they had it, they could show none. The sheriff, who was present, admitted that he had made returns to them on no other warrant than that he had found them in seisin. He was therefore ordered to summon twelve of the principal burgesses to appear in the exchequer on 12 November to show by what warrant their town had return of writs. On that day they defaulted and again on 7 December.[6] Nevertheless on 18 January 1257 Northampton received a charter specifically granting them return of writs[7] for which an oblation was made. At the same time their new charter was read in the exchequer and ordered to be observed henceforward.[8]

Aware of these grants of return of writs, Powicke suggested that franchises in private hands were increasing in this period.[9] This is a misapprehension. A charter granting return of writs was intended to curtail a liberty-holder's privileges, not to increase them. The boroughs which obtained new charters in 1255–57 already enjoyed the privilege of executing royal writs either by virtue of *non intromittat* clauses in earlier charters or by long

[1] Ballard and Tait, *Borough Charters*, pp. 171–2 and *Close Rolls*, *1254–6*, p. 114.

[2] E. 159/29, m. 16, marginated *Pro Rege*. Canterbury 100 marks (E. 159/30 m. 9d); Derby 70 (Ballard and Tait, *Borough Charters*, p. 172, n.); Dunwich 120 (E. 159/29, m. 18); Kings Lynn 80 (*Close Rolls*, *1254–6*, p. 416); Kingston-on-Thames 50 (*ibid.*, *1256–9*, p. 298); Northampton 40 (E. 159/30, m. 10d); Norwich 50 (*Close Rolls*, *1254–6*, p. 416); Scarborough 60 (*ibid.*, *1256–9*, pp. 23–4, 111); Worcester 90 (*ibid.*, p. 358); Yarmouth 60 (E. 368/31 m. 15d).

[3] E. 159/30, m. 1d.

[4] *Chronica Majora*, v, pp. 588–9.

[5] E. 159/30, m.3; T. Madox, *Firma Burgi* (1726), p. 159. *Cf.* Appendix B13.

[6] E. 159/30, m. 5d; *Close Rolls*, *1256–9*, p. 24.

[7] Ballard and Tait, *Borough Charters*, p. 171.

[8] E. 159/30, m. 10d.

[9] *King Henry III and the Lord Edward* (Oxford, 1947), i, p. 326.

user. The new doctrine of royal prerogative, expounded by the king himself, and recorded at the same time by his justice and councillor, Bracton,[1] invalidated both types of claim. Return of writs was a franchise pertaining to the crown, warrantable now only by charter. The interpretation of previous charters rested ultimately upon the king's will, which was that the charter must make specific mention of the franchise claimed. Matthew Paris noted this ruling in 1251[2] and the clergy included it in their grievances of 1257–8.[3] They complained likewise that when a franchise was claimed *sine scriptis* by ancient custom, the royal lawyers replied that such claims were insufficient against the king.[4] Bracton, applying the rule 'time does not run against the king', said long user aggravated the liberty-holder's offence.[5]

These rules applied to the boroughs claiming return of writs. The 'no long user' rule had compelled Northampton to obtain a new charter. The 'specific mention' rule was applied against five boroughs on the borders of Wales (Bridgnorth, Gloucester, Hereford, Shrewsbury, and Worcester), which all had an identical *non intromittat* clause granted them in Henry III's confirmation of charters in 1227.[6] In their new charters (all issued in 1256) this clause was retained in a modified form, but it was now no more than an adjunct to the return of writs clause.[7] When replying to the inquest of 1255, moreover, Bridgnorth and Shrewsbury

[1] *De Legibus* (*et Consuetudinibus Angliae*), ed. G. E. Woodbine (New Haven, 1915–42), ii, fo. 34, p. 109, fos. 55b–56, pp. 166–8. Bracton was a justice of the court *Coram Rege* 1247–51 and 1253–57 (C.A.F. Meekings, *Coram Rege Rolls and Writs: Henry III* (P.R.O. Round Room, typescript, 1957), pp. 10, 12). He was one of the councillors involved in the 'Sicilian business' in 1255 (*Patent Rolls*, *1247–58*, p. 451).

[2] *Chronica Majora*, v, pp. 210–11.

[3] *Ibid.*, vi, p. 364; *Annales Monastici*, i, pp. 420–21; *cf.* Cam, *Law-Finders*, pp. 40–41.

[4] *Chronica Majora*, vi, pp. 364–65.

[5] *De Legibus*, ii, fo. 14, p. 58, fo. 56, p. 167; E. H. Kantorowicz, *The King's Two Bodies* (Princeton, 1957), pp. 169–70.

[6] Ballard and Tait, *Borough Charters*, pp. 155–56.

[7] The clauses are set out in succession by E. Penson, *Eng. Hist. Rev.*, xxxv (1920), p. 558. The *non intromittat* clause in the grant to Worcester (Ballard and Tait, *op. cit.*, p. 158) differs from the others (*ibid.*, p. 159) because it is earlier, but it was brought into line when Worcester was regranted return of writs in 1264 (*Charter Rolls*, *1257–1300*, p. 48). In the revised clauses *non ingrediatur* was preferred to *non intromittat* because it was more precise.

had made no attempt to warrant return of writs by their privilege of excluding the sheriff. Bridgnorth replied 'Nothing'[1] and Shrewsbury answered: 'The men of Shrewsbury have return of the lord king's writs, and this by ancient custom, namely the writ called *Justicies*,'[2] an anomalous statement, since writs *Justicies* (ordering the addressee to do justice to the plaintiff) were restricted to a few forms of action. The burgesses either misunderstood the question, which is possible, as there is no evidence that return of writs was a familiar term in Shropshire, or they knew that it was useless to cite charters containing *non intromittat* clauses, because they could not bear a literal interpretation and would therefore be classed as valueless general words.

As far as can be ascertained no magnates obtained new charters in this period, though one, Walter Cantilupe bishop of Worcester, had a private agreement attached as a separate schedule to the charter roll of 1257–58.[3] He was probably allowed this privilege because he was sworn a councillor at that time.[4] By this agreement William Beauchamp, hereditary sheriff of Worcestershire, undertook to make to the bishop's bailiff 'return of all writs . . . word for word in full under his seal'. This settled a long-standing dispute in the course of which the sheriff had been excommunicated by both the bishop and the pope.[5] In Hilary term 1255 Cantilupe complained in the exchequer that the sheriff had failed to make him return of writs 'word for word'.[6] In 1256, however, according to the Worcester annals, the bishop obtained from the king the right to have 'extracts from the sheriff word for word sealed with his seal'.[7] The agreement of 1257 replaced 'extracts' by the

[1] *Rotuli Hundredorum* (Record Commission, 1812, 1818), ii, p. 59.

[2] *Ibid.*, p. 78.

[3] *Charter Rolls*, *1257–1300*, pp. 6–7. These *scripta autentica* are referred to also in Worcester annals *sub anno* 1257 (*Annales Monastici*, iv, pp. 444–45) and in a writ close dated 31 December 1257, rehearsing their contents to other sheriffs (*Close Rolls*, *1256–9*, pp. 181–82). A writ duly returned to the bishop's bailiff of Oswaldslaw hundred survives from 1260 (E. 202/1/2, 45). A later agreement of this type is noted by Helen Cam, (*The*) *Hundred and* (*the*) *Hundred Rolls* (1930), pp. 208–9.

[4] *Annales Monastici*, i, p. 395.

[5] *Ibid.*, v, index entries at pp. 24 and 396–97.

[6] E. 159/28, m. 6.

[7] *Annales Monastici*, iv, p. 444. A similar agreement of 1242 between the same sheriff and the abbot of Evesham referred to 'extractas et alia precepta que consueverunt deferri ad portam abbacie de Evesham' exequanda' (*Cata-*

more modern 'return of writs'. Yet Cantilupe's agreement would not have protected him if the king had pressed the rule that return of writs was warrantable only by charter.[1] After success with the boroughs Henry might well have put more pressure on the prelates, had not revolution overtaken him in 1258.

Little more was heard of return of writs until Edward I's 'Hundred Rolls' inquest in 1274[2] and the subsequent *quo warranto* proceedings revived the ideas and methods used by his father before 1258. In the early eyres of 1278–80, however, on both the northern and southern circuits, the royal attorneys prosecuting *quo warranto* pleas proceeded with moderation. Return of writs was allowed (usually after an inquest had established the truth as to the facts of the case) by general words in charters,[3] by long user,[4] and from time immemorial.[5] In the Kent eyre of 1279 the prior of Christ Church, Canterbury, claimed and was allowed return of writs 'by ancient custom without a charter',[6] although he cited a *non intromittat* clause among his privileges and possessed letters close specifically granting him return of writs in 1241.[7] He had presumably been advised that ancient custom was a surer plea than general words in a charter or specific words in a letter close. William of Gislingham, the king's attorney on the southern circuit, began to pursue a more aggressive policy in the Dorset eyre of 1280,[8] although return of writs was not affected until the Somerset eyre that summer. On 27 July 1280, on the adjournment of the Somerset eyre, the abbot of Glastonbury became the sixth prelate to have a charter specifically mentioning

logue of Ancient Deeds, iii, p. 419, no. D. 134; W. A. Morris, *The Early English County Court* (Berkeley, 1926), pp. 172–73).

[1] The rule was applied against a subsequent bishop of Worcester in 1285 (*infra* p. 71).

[2] *Rotuli Hundredorum*, i, p. (13): 'Qui eciam alii a Rege clamant habere returnum vel extractas brevium.'

[3] The bishop of Durham claimed it in his Yorkshire manors by virtue of their grant by William the Conqueror *cum omnibus dignitatibus et libertatibus regiis* (*P*(*lacita de*) *Q*(*uo*) *W*(*arranto*) (Record Commission, 1818), p. 187).

[4] Claim of Roger Bigod in Sussex (*ibid.*, p. 755).

[5] Claims of the archbishop of York (*ibid.*, p. 197) and of the abbot of St Mary's, York (*ibid.*, p. 201); D. W. Sutherland, *Quo Warranto Proceedings* (*in the Reign of Edward I, 1278–94*) (Oxford, 1963), p. 77.

[6] *P.Q.W.*, p. 348. [7] Appendix B23.

[8] Sutherland, *op. cit.*, p. 74.

return of writs, for which he made a fine of 1,000 marks.[1] When, in the Hampshire eyre which followed, the prior of St Swithun, Winchester, warranted return of writs by a *non intromittat* clause in a charter of Henry III, Gislingham replied that the charter made no specific mention of return of writs, whereas 'at the time when that charter was made, the king could have made mention therein of the said return'.[2] This plea showed some knowledge of, and regard for, historical fact. Likewise in the Wiltshire eyre of 1281, Gislingham challenged the bishop of Salisbury's claim to have return of writs from time immemorial and by virtue of a *non intromittat* clause in a charter of Henry III, since no mention was made of return of writs.[3] At the same time on the northern circuit at Lincoln, Gislingham's equivalent, Gilbert of Thornton, was using similar arguments. He pleaded against the bishop of Lincoln's claim to have the franchise from time immemorial and by continued use that return of writs pertained to the crown and could only be alienated by specific concession.[4]

In the same eyre Thornton faced John, earl Warenne, in the most significant of these actions. Warenne claimed to have return of writs in Stamford by grant of the king himself, made before his accession. Edward, who had had return of writs there, had conveyed the town to him 'as freely and fully as he held it' by charter in 1263. In making this grant, however, Edward had acted *ultra vires*, because Stamford had been given him by Henry III on condition that it should not be alienated from the crown. Nevertheless in 1266 Warenne obtained a confirmatory charter from Henry III in recognition of his 'long and praiseworthy service to us and to our son both abroad and at home'.[5] In the 'Hundred Rolls' inquest of 1274 the Stamford jurors presented Warenne as having return of writs and other franchises, used 'from time out of mind by what warrant they know not'.[6]

[1] *Charter Rolls, 1257–1300*, p. 226; *The Great Chartulary of Glastonbury* (Somerset Rec. Soc., 59, 1944), i, pp. 219–24, 226; *Cal. Fine Rolls, 1272–1307*, p. 142.

[2] *P.Q.W.*, p. 771; Sutherland, *op. cit.*, p. 119. The prior obtained a charter in 1285 (*infra*, p. 76).

[3] *P.Q.W.*, p. 804. In this eyre many liberty-holders disclaimed return of writs, which suggests that they knew it 'would be subjected to a specially exacting scrutiny' (Sutherland, *op. cit.*, p. 75, n. 3).

[4] *P.Q.W.*, p. 429; Sutherland, *op.cit.*, p. 89.

[5] *P.Q.W.*, p. 429.

[6] *Rotuli Hundredorum*, i, p. 354.

Doubts evidently persisted, as the Lincolnshire sheriff in 1275 ignored Warenne's right when he had an endorsement made on a writ *distringas* saying that Warenne's bailiffs had prevented royal bailiffs from entering Stamford.[1] Warenne retaliated with a warrant issued in September 1277 (while he was with the king at the Welsh camp near Deganwy) ordering the chancery to provide him a remedy until the next parliament, since he showed that the sheriff of Lincoln had already ignored a previous mandate concerning return of writs in Stamford.[2] Yet the next surviving reference to the matter is the uncompromising prosecution in the Lincoln eyre of 1281. Thornton did not deny that Edward had had return of writs in Stamford,[3] but argued that the franchise pertained to the crown and could not be conveyed by general words. The case was adjourned several times and finally came before the council in the parliament of Michaelmas 1282, which ruled: 'returnus (*sic*) brevium est mere quedam libertas ita annexa Corone domini Regis quod nullo modo potest nec debet a Corona recedere nisi per Regem tantum, et hoc non sub generalibus verbis immo sub specialibus que faciant inde plenam et expressam mencionem,'[4] and hence gave judgment against Warenne. By the king's order Thornton was allowed £10 out of the Lincoln eyre profits 'in aid of his expenses about the prosecution and defence of the matters touching the king in the eyre',[5] which suggests that his pleading against Warenne had Edward's support.

The challenge to return of writs was no longer confined therefore to the pleas of two attorneys whose views might be thought eccentric, but had been upheld by the highest tribunal in the realm. Appearing against the bishop of Worcester early in 1285, William of Selby, another royal attorney, put the judgment's argument more tersely: 'Return of writs never used to be granted to anyone without special warrant and that by charter.'[6] Implicitly

[1] E. 202/1, file 2, Easter term 1275.

[2] *Cal. Chancery Warrants, 1244–1326*, p. 2.

[3] 'Hoc fuit per occupacionem et purpresturam ballivorum ipsius domini Edwardi factam super Coronam et non in forma approbata' (*P.Q.W.*, p. 430).

[4] *Ibid.*, p. 430; J.I. 1/498, m. 21 (not m. 18, as in *P.Q.W.*).

[5] *Close Rolls, 1279–88*, p. 89.

[6] *P.Q.W.*, p. 783; Sutherland, *op. cit.*, pp. 80, 82, n. 1. The bishop obtained royal authorization to have return of writs in March 1285 (*Register*

the judgment disfranchised all the magnates (apart from six prelates) and the majority of boroughs of their right to be the law's executors, and it is difficult to avoid concluding that this was its intention. No evidence suggests that the prosecution arose from any personal quarrel between Edward and Warenne. Indeed, two days before paying Thornton the king gave Warenne twelve bucks.[1] If the judgment were not personal, the principle involved must have been considered important: Henry III's doctrine of sovereignty should have priority even over an agreement made by Edward himself. Yet Edward had less success than his father in imposing the crown's interpretation of return of writs on liberty-holders. Failure was hardly avoidable.

In origin return of writs was not a franchise granted by the crown, but one detail of a political settlement reflecting the relative power of sheriff and magnates in each county. The sheriff had made returns of writs to bailiffs whose liberties he was unable to coerce; by doing so he exonerated himself from responsibility. Time had given this compromise the sanction of immemorial custom. In 1250–58 Henry III had attempted to replace customary right by a reasoned theory of the crown's supremacy. But the subsequent revolution and civil war had demonstrated that the crown could not impose a solution of its own, because it was unable to overturn the balance of power upon which the prescriptive order rested. There remained, of course, some areas of doubt within the prescriptive order (Warenne's Stamford was probably one), yet these might have been defined by individual agreements between the crown and the liberty-holders concerned. They would never be eliminated by the repetitive and indiscriminate challenge to franchises into which the *quo warranto* proceedings developed. Instead of contracting, the areas of doubt extended immeasurably. As far as return of writs was concerned, the numerous adjourned actions probably caused more difficulty than the judgment against Warenne. If a sheriff continued to make returns of writs to a magnate whose right had been challenged, he

of Bishop Godfrey Giffard (Worcs. Hist. Soc., 1902), ii, p. 323). As recorded, Selby's plea ignored the historical development of franchises which the judgment against Warenne had taken into account (*cf.* Sutherland, *op. cit.*, p. 119).

[1] *Close Rolls, 1279–88*, p. 89.

might ultimately be prosecuted himself;[1] yet he was not entitled to dispossess a liberty-holder without a court order. Even a court order only gave the sheriff authority to enter a liberty, not the power to do so. In 1266 the Yorkshire sheriff had endorsed on a *non omittas* order which he had been prevented from executing by the so-called 'sheriff' of Holderness: 'Nullo modo possumus debito modo respondere, donec inde per dominum Regem et ejus consilium aliquod provideatur remedium et ordinatur.'[2]

In May–June 1285 such an ordinance was provided in chapter 39 of the second statute of Westminister,[3] which has received detailed treatment in Plucknett's *Legislation of Edward I*.[4] Alleging that sheriffs sometimes returned writs to unentitled liberties, the statute proposed that the treasurer should provide a roll of all liberties having return of writs. Henceforward any sheriff making a return to an unenrolled liberty would be punished as a disinheritor of the crown. If, on the other hand, the bailiffs of an entitled liberty could demonstrate in court that the sheriff had made no return to them, both the lord of the liberty and the litigant aggrieved by the delay might recover damages from the sheriff. Should the bailiffs fail to appear, or fail to convince the court, a *non omittas* clause would be included in every subsequent writ touching the plea. Nor in future would sheriffs dare reply that they had been prevented from executing the king's writ by the resistance of some powerful magnate, because such answers redounded to the king's dishonour. When resistance is reported the sheriff should proceed in person, accompanied by the *posse comitatus*, and imprison the offenders. Should he meet further resistance, he should inform the court of the names of all concerned, since persons convicted of such offences would be punished at the king's pleasure.

Apart from the proposed roll of liberties, the statute showed little originality. Plucknett thought that the coupling of a summons to the liberty's bailiff or his lord with the issue of the *non omittas* was new.[5] Yet the lord was summoned in the first recorded instance of *non omittas* procedure in 1201 and the bailiff

[1] In Warenne's case it was adjudged that the earl had had return of writs *per malam permissionem Vicecomitis* (*P.Q.W.*, p. 430).

[2] K.B. 136/1/4, 20.

[3] *Statutes of the Realm* (Record Commission, 1810), i, pp. 90–1.

[4] Corrected edn. (Oxford, 1962), pp. 30–4.

[5] *Op. cit.*, p. 32.

likewise in subsequent instances.[1] The summons of bailiff or lord was perhaps the older part of the procedure, as it is found in other examples without *non omittas*.[2] By Bracton's time, however, the two are coupled without comment.[3] On the other hand, the proposed automatic use of *non omittas* against defaulters was an innovation, though a minor one. Repetition would not have helped the sheriff of Yorkshire in 1266, nor would it in a similar situation in 1285. Plucknett's comment, 'Thus the bailiff will be unable to be remiss again',[4] is too hopeful. Similarly the final passage, when shorn of rhetoric, reiterates old procedures: the first reference to a sheriff proceeding personally against defaulters is in 1201;[5] provisions that he should take with him the forces of the county and that offenders should be imprisoned during the king's pleasure are found in Bracton.[6]

All these provisions depended on the compilation of the roll of those entitled to return of writs. Though original, this proposal was the weakest part of the whole scheme. A list based on the right of liberty-holders to exclude the sheriff by charter or long user would have been comparatively simple to draw up, as sheriffs' offices must already have had working lists of their own in order to make returns of writs. But the judgment against Warenne had ruled out every warrant for return of writs apart from charters specifically naming it, which were extremely rare. Consequently the proposed roll constituted a threat to nearly all the great liberties. For this reason it was never made. The *quo warranto* proceedings cast their shadow over other parts of the statute also. They made the statement that sheriffs returned writs to unentitled liberties ambivalent. Among the magnates allegedly resisting sheriffs were perhaps the bishops of Lincoln and Salisbury and others forced to resort to self-help by adjourned *quo warranto* actions. Among them too may have been Warenne himself. The story in the Yorkshire chronicle of Guisborough that Warenne held up in court an ancient rusty sword and said: 'Here my lords, here is my warrant! My ancestors came with William the Bastard and conquered their lands with the sword, and I shall defend

[1] Appendix A1, A3, A4, A5.

[2] *C.R.R.*, ii, pp. 70 (Lincoln), 71 (co. Suffolk), 79 (Bristol), 80 (co. Norfolk).

[3] *De Legibus*, iv, fo. 442, p. 372.

[4] *Op. cit.*, p. 32.

[5] *C.R.R.*, ii, p. 70 (Lincoln).

[6] *De Legibus*, iv, fo. 442b, p. 372.

them with the sword against anyone who tries to usurp them,' which has been thought apocryphal,[1] could refer to Kirkby's Quest in Yorkshire in the year of the statute.[2] The extant record merely notes: 'Dominus Johannes comes Warenne tenet Haitfeld, Stainford, Parvam Sandhale, Cunynggesburgh; sed non dicit de quo, nec per quod servicium,'[3] but this is an extract from a fuller summary, and no such plea would have been recorded in Warenne's alleged words anyway. In Domesday Book all these lands were held by William de Warenne.[4] The earl had certainly sufficient provocation, for early in 1286 he was again prosecuted by Thornton, this time concerning his ancestral right to wreck.[5] In three successive eyres in 1286–7 Thornton put forward the counter theory: that the Conquest had restored all franchises to the crown.[6] Be that as it may, disorders arising from *quo warranto* proceedings help explain why a statutory remedy for return of writs was required in 1285.

The king may have thought that the proposed roll would intimidate the magnates into suing for new charters, just as Henry III had successfully alarmed the boroughs in 1255–8. But the evidence suggests that reactions to it were slighter, and in one instance brought the government into contempt.[7] In the Essex eyre immediately after the statute some claimants modified their pleas. The abbot of Westminster cited his charter of Henry III, whereas in the Wiltshire eyre of 1281 he had claimed return of writs by long user.[8] The abbot of Waltham profferred his charter of

[1] Helen Cam, *Liberties and Communities in Medieval England* (Cambridge, 1944), pp. 176–7; Sutherland, *Quo Warranto Proceedings*, p. 82, n. 2, and the works there cited.

[2] Although Kirkby's Quest was not technically a *quo warranto* proceeding, its terms of reference (*Feudal Aids* (H.M.S.O., 1899), i, pp. xii–xiii) were sufficiently similar to allow a chronicler to describe it as such.

[3] *Feudal Aids*, vi, p. 2. In 1302–3 Warenne's bailiffs explicitly refused access to royal commissioners (*ibid.*, pp. 129, 131).

[4] *V(ictoria) C(ounty) H(istory) (of) Yorkshire* (1912), ii, pp. 258–59.

[5] *Select Cases in the Exchequer of Pleas* (Selden Soc., 48, 1931), pp. 109–10.

[6] Sutherland, *op. cit.*, pp. 83–84. Another conquest theory advanced by the French nobility in 1247 was noted by Matthew Paris, *Chronica Majora*, iv, p. 593.

[7] The abbot of Chertsey, *infra*, pp. 76–7.

[8] *P.Q.W.*, pp. 232, 813. According to the author of *Flores Historiarum* (Rolls Series, 1890), iii, pp. 49–50, the abbot's right had been challenged by the king in 1278.

1253, which he had not referred to in the Hertfordshire eyre of 1278.[1] The lord of Ongar hundred argued ingeniously that he did not have return of writs 'only sheriff's extracts to raise the king's debts and to execute other royal precepts',[2] but a writ of 1253 endorsed *Transcrib' ballivo de Aungr'* belies him.[3] In subsequent eyres, however, warranty by prescription and by *non intromittat* clauses returned and produced indefinite adjournments as it had done before 1285. By the '*Quo Warranto*' statute of 1290 prescription was admitted to be sufficient warrant for franchises such as return of writs. The interpretation of *non intromittat* clauses, on the other hand, was still being debated between king's counsel and an abbot of St Albans in 1330.[4] There is no evidence from the exchequer memoranda rolls that the roll of liberties was even begun. Indeed, when in a 'state trial' of 1289 John Foucher offered to prove from the rolls of the exchequer and the writs returned into the Bench that the sheriff of Essex had never in the past made return of writs to the queen's bailiff of Barstable hundred, the plea was adjourned without day because it concerned the queen.[5] And the sheriff revealed political realities by pleading that he had not dared enter the hundred on account of the power of her bailiffs.

Grants of new charters were few and repetitive. There were two in the period between Warenne's judgment and the statute[6] and six more in the half year following it, notably one to the abbot of Chertsey and one to the prior of St Swithun, Winchester,[7] whose right had been challenged in 1280.[8] The Chertsey charter is particularly significant. On 26 June 1285, shortly after the statute, the abbey was allowed return of writs in Godley hundred by *inspeximus* of a charter of Richard I containing a *non intromittat* clause with the rider 'salvo tamen quod mandata nostra per returnum brevium, cum ad predictos abbatem et conventum vene-

[1] *P.Q.W.*, pp. 235, 283.
[2] *Ibid.*, p. 232.
[3] J.I. 4/1/2, 12/1.
[4] *P.Q.W.*, pp. 23–25.
[5] J.I. 1/541A, m. 39.
[6] To the bishops of Winchester and Bangor (*Charter Rolls, 1257–1300*, pp. 273, 279).
[7] *Charter Rolls, 1257–1300*, p. 322. The four others were: confirmations of Henry III's grants to Dunwich and Yarmouth (*ibid.*, pp. 315, 318); a grant to Amesbury priory (*ibid.*, p. 287); a confirmation of the earl of Cornwall's grant to Ashridge college (*ibid.*, p. 325).
[8] *Supra*, p. 70.

rint, per balliv' eorum exequantur.'[1] The unlikelihood of Richard I referring specifically to return of writs was first noted by Mr Denholm-Young[2] and further investigated by Painter,[3] who demonstrated that the charter was a synthesis of two genuine charters of Richard I supplemented by interpolations. In the Surrey eyre of 1279 the abbey had claimed return of writs, apparently by virtue of a charter of Edward the Confessor,[4] and the case had been adjourned. In 1281 an inquest initiated by the abbot found that:

> the abbot of Chertsey and his predecessors ought, *by charter of king Richard*, and were wont, to have return of all writs within their hundred of Godele until Emery de Cancellis, late sheriff of Surrey, did not allow the abbot to have such return, but sometimes returned to him the writs and sometimes not.[5]

The sheriff probably vacillated in this way because the *quo warranto* case had been adjourned. Once he was dead,[6] the abbey forged Richard's charter to replace the imprecise grant of Edward the Confessor, which was also a forgery, inspected and confirmed in Latin by Henry III in 1256.[7] Threatened again by the statute of 1285, the abbey had the temerity to get the latest forgery inspected and confirmed. In the next decade only one new charter was granted,[8] although a few earlier ones were confirmed or extended.[9] Between 1298 and 1302 Henry III's grant to Canterbury was confirmed[10] and five new charters were issued (three to

[1] *Charter Rolls*, *1257–1300*, p. 306; paraphrased (inaccurately) in *V.C.H. Surrey*, iii, p. 396, and in *Surrey Rec. Soc.*, xii (concluded) (1963), p. 374. *Per returnum brevium* means 'through the rehearsal of writs'; *cf.* Appendix C2 and the Westminster charter of 1243 (*supra* p. 63).

[2] *Seignorial Administration in England* (Oxford, 1937), p. 88, n. 6.

[3] (*Studies in the History of the*) *English Feudal Barony* (Baltimore, 1943), p. 116, n. 97. *Feudalism and Liberty* (Baltimore, 1961), pp. 178–84.

[4] *P.Q.W.*, p. 744.

[5] *Cal. Inq. Misc.*, i, no. 1221 (my italics).

[6] By 5 May 1280 (*Patent Rolls*, *1272–81*, p. 369).

[7] F. E. Harmer, *Anglo-Saxon Writs* (Manchester, 1952), pp. 205–10. W. Dugdale, *Monasticon Anglicanum* (London, 1817), i, p. 433. The abbot had paid 100 marks for this confirmation (*Close Rolls*, *1256–9*, pp. 193–94).

[8] To St. Leonard's hospital, York (*Charter Rolls*, *1257–1300*, p. 438).

[9] To Amesbury priory (*ibid.*, p. 331), Ashridge college (*ibid.*, p. 357), Westminster abbey (*ibid.*, pp. 411, 425).

[10] *Ibid.*, p. 472.

boroughs,[1] two to prelates).[2] After a grant in 1306 the king foreclosed, by putting on record in chancery, wardrobe and exchequer that no further concessions of return of writs would be made except to his family.[3] One such grant was made in 1307 to his nephew, Thomas of Lancaster.[4] Altogether twelve original grants of return of writs were made by Edward I.

Yet the *quo warranto* proceedings and the statute had one effect: they made sheriffs' clerks more careful of their words. In writ endorsements from the last decade of Edward I's reign onwards 'return' was used consistently to describe a sheriff's precept to a liberty-holder.[5] It was applied to all immunities, whether or not they had charters specifically granting them return of writs, and hence became a standard shorthand term which replaced the various longer formulas obtaining hitherto. Ultimately, therefore, the franchise of return of writs came to mean the right of a liberty-holder to exclude the sheriff; but this definition was the product of a century's controversy, and would have satisfied neither Gilbert of Thornton nor the earl Warenne. To Thornton it was imprecise and to Warenne superfluous.[6]

'In the thirteenth century . . . the liberty had to move with changing times if it was to remain an immunity.'[7] The return of writs controversy is a good illustration of Professor Miller's thesis, although in this instance most liberty-holders refused to move, or, like the abbot of Chertsey, outflanked the Crown. They based their privilege of executing royal writs on their right to exclude the sheriff, which they had from time immemorial or by *non intromittat* clauses in charters. To them return of writs

[1] Hull (*ibid.*, p. 475), 'Ravenserod' (*ibid.*, p. 476), Berwick-upon-Tweed (*ibid.*, *1300–26*, p. 27).

[2] The bishop of Coventry and Lichfield (*ibid.*, *1257–1300*, p. 476) and the abbot of Peterborough (*ibid.*, p. 486).

[3] *Rotuli Parliamentorum* (1783), i, p. 211, no. 97; noted by Cam, *Hundred and Hundred Rolls*, p. 214.

[4] *Charter Rolls*, *1300–26*, p. 82.

[5] Evidence of this later usage is available in the printed *Parliamentary Writs* (Record Commission, 1827–34), utilized by Ludwig Riess, *The History of the English Electoral Law in the Middle Ages*, ed. K. L. Wood-Legh (Cambridge, 1940), pp. 30–32.

[6] 'Et idem Comes, quesitus si quid aliud velit dicere, dicit quod videtur ei sufficienter respondisse' (*P.Q.W.*, p. 430).

[7] Miller, *Ely*, p. 241.

was simply one detail of their privilege and not a high franchise in itself. As the prior of Carlisle put it in the Cumberland eyre of 1292–93: return of writs was sufficiently contained (*satis continetur*) in a *non intromittat* clause.[1] Two years earlier the abbot of St Mary's, York, had called the tendentious interpretation of general words in royal grants *subtilitas modernorum*.[2] Although his complaint referred to the franchise of *catalla felonum* and not specifically to return of writs, his words apply to it with equal force. To magnates of the old order return of writs was no high franchise, but an invention of clever new men.

University of Glasgow.

[1] *P.Q.W.*, p. 121.
[2] *Rotuli Parliamentorum*, i, p. 57, petition 146.

APPENDIX A:

REFERENCES TO *NON OMITTAS*, 1200–20

no.	*year*	*liberty of*	*in*	*source*
1	1201	(Hamel) earl Warenne	Norfolk	*C.R.R.*, ii, 58
2	1203	earl of Arundel	,,	,, iii, 18
3	,,	,,	,,	,, iii, 20
4	,,	,,	,,	,, iii, 22
5	,,	(William) earl Warenne	,,	,, iii, 50
6	1204	Ely bishopric	Suffolk	,, iii, 241
7	1205	St Edmunds abbey	,,	,, iii, 261
8	,,	Lothingland hundred	,,	,, iv, 7
9	,,	Canterbury archbishopric	Norfolk	,, iv, 28
10	,,	Hubert de Burgh	,,	,, iv, 32
11	1206	St Edmunds abbey	Suffolk	,, iv, 176
12	,,	Freebridge hd. (? earl Warenne)	Norfolk	,, iv, 182
13	,,	St Edmunds abbey (*cf. C.R.R.*, iv, 317)	Suffolk	,, iv, 208
14	,,	earl Warenne	Norfolk	,, iv, 272
15	,,	St. Albans abbey	Herts	,, iv, 285
16	,,	St Edmunds abbey	Suffolk	,, iv, 286
17	1207	earl of Arundel and Ramsey abbey	Norfolk	,, v, 30
18	,,	earl of Arundel	,,	,, v, 52
19	1208	,,	,,	,, v, 199
20	1214	St Edmunds abbey	Suffolk	,, vii, 97
21	,,	,,	,,	,, vii, 131
22	1219	Ely bishopric	,,	*Selden Soc.*, 53, no. 668
23	,,	,,	,,	,, 53, no. 706
24	,,	Norwich bishopric	Norfolk	*C.R.R.*, viii, 82
25	,,	Canterbury archbishopric	Sussex	,, viii, 129
26	1220	Norwich bishopric	Norfolk	,, viii, 311
27	,,	St Edmunds abbey	Suffolk	,, ix, 149
28	,,	,,	,,	,, ix, 357
29	,,	,,	,,	,, ix, 376

Note: The gaps 1209–13 and 1215–18 may be accounted for by the absence of eyres in these years, as there would have been less supervision of sheriffs by royal justices. Also fewer plea rolls survive from these years.

APPENDIX B:

REFERENCES TO RETURN OF WRITS BEFORE 1250

no.	*year*	*liberty of*	*in*	*source*
1	1199	Ramsey abbey	Norfolk	*Rotuli Curiae Regis*, ed. Palgrave, ii, 86
2	1221	Norwich bishopric	,,	*Rot. Lit. Claus.*, i, 482
3	1222	,,	,,	,, i, 486
4	1223	Ely bishopric	Suffolk	,, i, 539–40
5	,,	Abingdon abbey	Berks	*C.R.R.*, xi, no. 941
6	1224	Ely bishopric	Suffolk	*Rot. Lit. Claus.*, i, 583
7	,,	,,	,,	*C.R.R.*, xi, no. 2619
8	1225	,,	,,	*Rot. Lit. Claus.*, ii, 18
9	,,	,,	,,	,, ii, 46
10	,,	,,	,,	,, ii, 65
11	,,	,,	,,	*C.R.R*, xii, no. 1340
12	1228	Englelard de Cicogné	Oxon	*Close Rolls*, 50
13	1229	Northampton borough	Northants	*Bracton's Note Book*, ii, no. 351
14	1230	Abingdon abbey	Berks	*Close Rolls*, 333
15	,,	,,	,,	*Charter Rolls*, 121
16	1231	Canterbury archbishopric	various counties	*Close Rolls*, 529
17	1232	Ely bishopric	Suffolk	,, 138
18	1233	,,	,,	*Charter Rolls*, 183
19	1235	Canterbury archbishopric	various counties	*Close Rolls*, 117
20	,,	,,	,,	,, 149
21	1237	Norwich bishopric	Norfolk	,, 520
22	1240	Canterbury archbishopric	various counties	*Gervase of Canterbury* (Rolls Series, 73), ii, 176–7
23	1241	Christ Church Canterbury	Kent	*Close Rolls*, 300
24	1243	Westminster abbry	all lands	*Patent Rolls*, 381
25	1244	Canterbury archbishopric	Kent	*Close Rolls*, 267 8
26	1245	,,	,,	,, 292
27	,,	Mandate of sheriff of and	Surrey Sussex	,, 361
28	1248	Canterbury archbishopric	Kent	,, 77
29	1249	Isle of Wight	Hants	,, 209

Note: I owe some of these references to Mr R. Latham, editor of the *Revised Medieval Latin Word List* (1965); *cf.* Painter, *English Feudal Barony*, p. 116, no. 97.

APPENDIX C:

SELECT WRIT ENDORSEMENTS

1. Exchequer writ *Venire facias* to the sheriff of Norfolk returnable in Michaelmas term 1260:

> Preceptum fuit senescallo libertatis Sancti Eadmundi ubi habent returna brevium et execucionem eorundem, et nichil inde respondit (E. 202/1/2, 13).

2. Judicial writ *Cape* to the sheriff of Hampshire returnable in the Bench in Michaelmas term 1272:

> Istud breve returnatum fuit Ballivis libertatis de Insula (*Isle of Wight*), in quam vicecomes non habet ingressum nisi per returnum brevis, qui nichil responderunt (C.P. 52/1/1A, Part 1, 8).

3. Judicial writ *Habeas corpora juratorum* to the sheriff of Suffolk returnable in the Bench in Michaelmas term 1272:

> Qui liberavit mihi hoc breve habuit returnum, et illud non liberavit ballivo qui debuerat execucionem fecisse, et sic periit (*ibid.*, Part 2, 66).

4. Exchequer writ *Distringas* to the sheriff of Wiltshire returnable in Easter term 1275:

> Retornatum fuit Ballivo hundredi de Heghtrudebury, in quam libertatem vicecomes non habet ingressum, ad distringendum Robertum filium et heredem Johannis de Vernun secundum formam istius mandati, et ballivus ejusdem libertatis nullum inde dedit responsum.
>
> Item mandatum fuit Ballivo hundredi de Whereuelesdone in quam libertatem vicecomes non habet ingressum, ad distringendum Johannem filium et heredem Willelmi de Tynhide secundum formam istius mandati, et idem ballivus tale dedit responsum . . . (E. 202/1/ files for 3 Edward I, 2).

WAS THERE A TUDOR DESPOTISM AFTER ALL?

By Professor Joel Hurstfield, D.Lit., F.R.Hist.S.

READ 8 OCTOBER 1966

IN the reign of James I, Sir Walter Ralegh, a prisoner in the Tower and under sentence of death, occupied some of his leisure in writing a *History of the World*. Unfortunately, he never got beyond 130 B.C.; but in his Introduction he did pause to comment on more recent history. Now that Elizabeth I was dead, he felt able to speak quite freely about her father:

> 'Now for King Henry the Eight: if all the pictures and patterns of a mercilless prince were lost in the world, they might all again be painted to the life, out of the story of this King. For how many servants did he advance in haste (but for what vertue no man could suspect) and with the change of his fancy ruined again, no man knowing for what offence? To how many others of more desert gave he abundant flowers, from whence to gather Hony, and in the end of Harvest burnt them in the Hive?'[1]

Now, as it happens, this is not the isolated opinion of an embittered and disappointed man who had been a failure in politics. King James I—who agreed with Ralegh in nothing else—agreed with him in this.[2] So did Sir Robert Cecil.[3] So did many historians writing in the eighteenth and nineteenth centuries. It was not until the middle of the nineteenth century, when James Anthony Froude was publishing his *History*, that a new picture began to be drawn.[4] In Froude's books Henry VIII emerges not as an autocrat forcing a revolution on a subject people but as the authentic voice of English liberty and independence, both the architect and the saviour of the English nation. But the effect of Froude's *History*, as of everything else he wrote, was to stir a controversy

[1] W. Ralegh, *The History of the World* (London, 1687), p. viii.

[2] See the passage cited in G. R. Elton, 'Henry VIII's Act of Proclamations', *Eng. Hist. Rev.* (1960), lxxv, p. 228.

[3] *Proceedings in Parliament, 1610*, ed. Elizabeth R. Foster (New Haven and London, 1966), i, pp. 231–32.

[4] J. A. Froude, *A History of England*, from the fall of Wolsey to the defeat of the Spanish Armada (London, 1856–70), many times reprinted.

rather than to resolve a doubt. It would, in any case, be of little profit to ponder over the posthumous reputation of Henry VIII were it not that it raises much larger questions of freedom, authority and self-government. The question which our predecessors asked, as we do today, is: did the people of sixteenth-century England consent to the government which ruled over them?

This is not just a modern question thrust anachronistically on a past age. Englishmen of the sixteenth and seventeenth centuries were much concerned with this fundamental problem of self-government. 'What is it that you would have?' asked Oliver Cromwell, at the height of his power, of the irrepressible Ludlow who presumed to criticize him. 'That which we fought for,' was the answer, 'that the nation might be governed by its own consent.'[1] He was merely expressing with a soldierly brevity what, eighty years before, Peter Wentworth was saying in the House of Commons in his magnificent Elizabethan prose.[2]

When I was an undergraduate, the conception that Tudor England was governed by a despotism was the received doctrine, although it was beginning to show signs of strain. Now, apparently, the position is quite otherwise. 'Tudor despotism'—I am quoting from an undergraduate essay presented to me earlier this year—'which was supposed to be a fusion of "Lancastrian constitutionalism" and "Yorkist tyranny" has long joined the other two terms in the dustbin.' From that opinion I ventured to dissent; but it is not simply to register my dissent that I have prepared this paper. My own recent work has increasingly pressed doubts upon me about the accepted notions of Tudor rule. Somehow one must analyse and explain the enormous gap between the constitution and the political reality; between those who wielded authority and those who merely legalized its use; between the language of law and the facts of life; or, to put it the way Wentworth put it, the profound difference between the name of the thing and the thing itself. This surely is the historian's problem: where in fact lay the roots of power?

The notion that the sixteenth century saw the rise of a Tudor despotism derived in part from the belief of historians as to what

[1] *The Memoirs of Edmund Ludlow*, ed. C. H. Firth (Oxford, 1894), ii, p. 11.

[2] Cited in J. E. Neale, *Elizabeth I and her Parliaments* (London, 1953), i, pp. 318–25.

had been happening in the fifteenth and which I shall attempt, all too briefly, to summarize. To Stubbs and his contemporaries, the first half of the fifteenth century saw an extraordinary exercise in self-government, which they designated the Lancastrian experiment.[1] According to this seductive thesis, the usurping Henry IV, anxious to make his government acceptable, made a bid for middle-class support as represented in the House of Commons. Here, then, under the Lancastrians was the first, premature essay in parliamentary government, a fragile, insecure thing which collapsed in the disordered years of Henry VI. There followed the factious struggle of the aristocracy and the chaos of civil war until, under the Yorkists, and more especially under the Tudors, a nation, weary alike of constitutional experiment and internal warfare, gladly yielded up its powers to a new monarchy. Hence strong, centralized government was established (or re-established) and this was the Tudor despotism.

In all this there is a great deal of mythology. The Commons, it was later argued, did not foreshadow the democratic spirit of Victorian parliaments; the members were rather the instruments of aristocratic patronage than the assertive representatives of local opinion; and there was no dramatic decline from self-government into autocracy.[2] If, then, the 'Lancastrian experiment' was no more than an exploded myth, the same discredit therefore attached itself to the 'Tudor despotism', which was under fire for other reasons as well. For the fifteenth century, however, the pendulum has recently begun to swing back, in the writings of Professor Roskell, Sir Goronwy Edwards and others, not towards the notion of an experiment but to acknowledge a greater maturity in the House of Commons than recent critics would allow.[3] But the concept of a Tudor despotism did not share in this

[1] W. Stubbs, *The Constitutional History of England* (Oxford, 1878), iii, chapter xviii. See also the valuable re-assessment of Stubbs in Helen M. Cam, 'Stubbs seventy years after', *Camb. Hist. Journal* (1948), ix, pp. 129–47.

[2] See e.g. G. O. Sayles, *The Medieval Foundations of England* (London, 1958), pp. 464–65 and references given on p. 465.

[3] J. S. Roskell, *The Commons in the Parliament of 1422* (Manchester, 1954) and his article 'Perspectives in English Parliamentary History', *Bull. of the John Rylands Library* (1964), xlvi, pp. 448–75; J. G. Edwards, *The Commons in Medieval English Parliaments* (London, 1958); A. L. Brown, 'The Commons and the Council in the reign of Henry IV', *Eng. Hist. Rev.* (1964), lxxix, pp. 1–30.

recovery. As every schoolboy knows, it was shattered beyond repair; and it is only on a quiet Saturday afternoon in Chelsea, and in the company of a handful of scholars—all personal friends—that I would presume to ask whether the demolition squad has been too zealous in its work.

But first I must define my terms. If by despotism we mean only that form of society in which the government is supreme and unchallenged; in which no divergent expression is possible; and in which all aspects of life are entirely under the control of one central power; then we shall seek in vain for it in any past or present society. However harsh a régime, it could be acquitted of the charge of despotism. For all governments are no stronger than their weakest human link; and every government, however tyrannical, encounters resistance, either voluntary or involuntary, from some at least of the people it governs. But if we regard despotism as authoritarian rule in which the government is resolved to enforce its will on a nation and to suppress all expressions of dissent; and if this is a society in which the people have few means of influencing decisions on major issues; then we may find despotisms—of varying degrees of efficiency—at many stages during the evolution of modern society.

I

The kind of despotism which historians discovered in the sixteenth century varied according to their knowledge of the period and their sensibility to the colour and texture of Tudor English. For it was in the sixteenth century that Englishmen were for the first time speaking a language closely identifiable with our own, or at least easily mistaken for it. The study of semantics is no part of the training of a historian and we are liable, therefore, to fall into every linguistic trap that lies hidden below the thin surface of the documents we handle. I have constantly to remind myself that, although a Tudor politician spoke our language, he did not think our thoughts. If we take merely these dynamite words, liberty, representation, parliament, law, kingdom, empire, not a single one of them meant to him what they mean to us. In most cases, the meanings which these words have acquired would have been repulsive to the governing classes of Tudor England. Or if

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not repulsive then as incomprehensible as would have been Sir Edward Coke's views on Magna Carta to the barons of thirteenth-century England. If, then, we use words like limited monarchy or the supremacy of statute we should tread warily for we have somehow wandered into a minefield.

To John Richard Green, writing in 1874 his *Short History of the English People*, 'the character of the monarchy from the time of Edward the Fourth to the days of Elizabeth, remains something strange and isolated in our history'. Parliament was reduced to submission, liberty was 'almost extinguished', 'justice was degraded'. 'To careless observers of a later day the constitutional monarchy of the Edwards and the Henries seems suddenly to have transformed itself under the Tudors into a despotism as complete as the despotism of the Turk.' 'Such a view', he adds gravely, 'is no doubt exaggerated and unjust.' No doubt it is. But, according to Green, this was no government by consent, save in this respect: landowner and merchant alike dreaded the return of war and disorder. So 'the landed and monied classes clung passionately to the Monarchy, as the one great force which could save them from social revolt . . . It was to the selfish panic of both landowner and merchant that she [England] owed the despotism of the monarchy.'[1]

If there is something *simpliste* in all this, Bishop Stubbs writing his Oxford lectures seven years later saw Henry VIII and his government in much the same light, although the language is more temperate. 'From the very beginning of his reign', he writes, 'he is finding out what he can do; from the fall of Wolsey, and especially after the sacrifice of More, he is coming to regard what he can do as the only measure of what he ought to do: he is becoming the king for whom the kingdom is, the tyrant whose every caprice is wise and sacred.' Elsewhere he speaks of the system as 'the Tudor dictatorship'.[2] Some seven years after this, Maitland, lecturing at Cambridge, saw the power of Henry VIII within a subtle and more complex constitutional pattern. Like Green and Stubbs, he considered that the House of Lancaster was

[1] J. R. Green, *History of the English People* (London, 1878), ii. pp. 6–7, 21. I am quoting from the fuller version which appeared soon after the *Short History*.

[2] W. Stubbs, *Seventeen Lectures*, on the study of medieval and modern history (Oxford, 1886), pp. 246, 262.

'in a measure identified with a tradition of parliamentary government' and the House of York was 'bound up with a claim to rule in defiance of statutes'. Yet, Maitland emphasizes, the constitutional restraints remain. The king has 'no theoretic claim to be above the law'.[1] His powers are still within the framework that Fortescue set out in the generation before the accession of the Tudors.[2] But theory and practice are parting company. The constitutional restraints are being turned into organs of royal government. 'The King', says Maitland, 'is beginning to find out that parliamentary institutions can be made the engines of his will.'[3] This is, of course, still autocracy but it is autocracy within a parliamentary framework.

Maitland wrote as a constitutional historian, as did A. F. Pollard when, in 1902, he brought out his masterly study of Henry VIII. But to the skills of a constitutional historian he added high skills also as a biographer. Although he came closer than any other historian to understanding the king, he did not fall under his spell—or perhaps I should say because of this understanding. He saw Henry as an able ruler, ruthless, egotistical yet with a profound sense of the national interest which he bound up with his own. 'His dictatorship', writes Pollard, 'was the child of the Wars of the Roses and his people . . . were willing to bear with a much more arbitrary government than they would have been in less perilous times. The alternatives may have been evil but the choice was freely made.' '*The choice was freely made.*'[4] Here is the basic assumption to which I shall shortly return. But to Pollard Henry was none the less a despot who believed that autocracy was the only means to safeguard the nation; and to this end the whole apparatus of the state was directed. 'No king was so careful of law', he writes, 'but he was not so careful of justice. Therein lay his safety, for the law takes no cognizance of justice, unless the injustice is also a breach of the law, and Henry rarely, if ever,

[1] F. W. Maitland, *The Constitutional History of England* (Cambridge, 1955), pp. 194–99.

[2] John Fortescue, *De Laudibus Legum Angliae*, ed. S. B. Chrimes (Cambridge, 1942); *The Governance of England*, ed. C. Plummer (Oxford, 1885).

[3] F. W. Maitland, *op. cit.*, p. 199.

[4] A. F. Pollard, *Henry VIII* (London, 1930), p. 429. My italics. See also C. H. Williams, *The Making of the Tudor Despotism* (London, 2nd ed. 1935), chapter VIII.

broke the law.'[1] But Pollard did not disguise the price that was paid. 'The nation purchased political salvation at the price of moral debasement; the individual was sacrificed on the altar of the State; and popular subservience proved the impossibility of saving a people from itself.'[2] Yet built into Pollard's thesis was as we can see, the doctrine of popular consent. '*The choice*', he said, '*was freely made*.'

The critical qualifications in Pollard's analysis were lost in the work of some of his successors. G. M. Trevelyan, writing in much more general terms, saw parliamentary consent as an active expression of the popular will. His *History of England*, published in 1926, is not a work of original research but it was widely read and reflects the revival of a romantic attitude to the Tudor period as a whole. 'In the Tudor epoch', he writes, 'the nation asserted its new strength and . . . claimed the right to do whatever it liked within its own frontiers'. All this was 'embodied in the person of the Prince. This is the general cause of the Kingworship of the Sixteenth Century.' 'The plenary powers of the new State', Trevelyan believed, 'could in that age have been exercised only by the King.' King and Privy Council, he says, taught the parliamentarians and the justices of the peace the work of government, so long neglected. 'Parliament', he writes, warming up to a wholly misleading analogy, 'was ready to be the scholar and servant of royalty, like a prentice serving his time and fitting himself to become partner and heir.' So Henry VIII 'set the new Monarchy in alliance with the strongest forces of the coming age'.[3] And then, looking again at the position at the end of the century, Trevelyan saw in it the fulfilment of the early prospects. That individual liberty did not exist he fully acknowledged, yet he managed to find in Tudor England the basic conditions of acceptance. 'England was not a despotism. The power of the crown rested not on force but on popular support.'[4] Here in its full splendour and conviction was the doctrine of consent. The hand is the hand of Trevelyan but the voice is the voice of Froude.

A good deal of this is a flight of fancy on the part of Trevelyan; yet it reflected views widely held among historians. But in a

[1] *Ibid.*, pp. 435–36.
[2] *Ibid.*, p. 438.
[3] G. M. Trevelyan, *History of England* (London, 1926), pp. 269–70.
[4] *Ibid.*, p. 366.

general work of this sort his account was vague, question-begging and inevitably brief. As is often the case in discussions of this sort, the evidence is implicit rather than explicit; but the argument is familiar. That is, the crown had no standing army, no adequate revenue, no effective administrative machinery, no reliable system of communications—all of them essential to a strong government which aims to enforce its will on the nation as a whole. Therefore, so the argument runs, the government could not have imposed its will and could only have survived because it gave voice to the will of the community. These then are the two central assumptions of modern historical writing: that the government could not exercise the force necessary for an autocracy and that it survived because its will was based on popular consent freely given. If, however, it can be shown that the government *did* have means for imposing its will and secondly, if there are doubts as to whether it rested on popular consent freely given, then the whole subject of Tudor despotism is once again open for debate among historians.

I have said that Trevelyan's arguments are general and implicit. In the work of Dr G. R. Elton, on the other hand, the relations between the crown and parliament are analysed in the course of a deep study of an extensive range of governmental documents. On the basis of his evidence, which we shall examine shortly, Dr Elton writes

> 'Thus the political events and constitutional expansion of the 1530's produced major changes in the position of Parliament. Long and frequent sessions, fundamental and far-reaching measures, revolutionary consequences, governmental leadership—all these combined with the Crown's devotion to statute and use of Parliament to give that institution a new air, even to change it essentially into its modern form as the supreme and sovereign legislator.'[1]

The best summary of Dr. Elton's standpoint is given in his textbook on sixteenth-century England, where he writes:

> 'Whatever may have been the case before Cromwell's work—whatever Wolsey may have stood for—there was no Tudor

[1] *The Tudor Constitution*, edited and introduced by G. R. Elton (Cambridge, 1960), p. 234.

despotism after it. Wittingly or not—and the present writer has no doubt that it was done wittingly—Cromwell established the reformed state as a limited monarchy and not as a despotism.'[1]

With these words, it may be said, the obsequies upon the notion of a Tudor despotism were finally spoken. Tudor despotism was not only dead but buried.

Or was it? In any discussion of the nature and aims of early Tudor government we are at once confronted with the problem of Thomas Cromwell. In this we are fortunate in having R. B. Merriman's *Life and Letters of Thomas Cromwell*,[2] published in 1902, and the various articles and books by Dr Elton, of which the most important is his *Tudor Revolution in Government*, published in 1953.[3] Merriman's book is valuable for what he prints of Cromwell's papers rather than for what he says himself; for his views are extreme and his evidence not strong enough to sustain them.[4]

For a more detailed presentation of Cromwell's position, however, we must turn to Dr Elton's paper, 'The Political Creed of Thomas Cromwell', read before this Society in 1955,[5] and some of the materials presented in his *Tudor Constitution*, published in 1960.[6] In his paper, Dr Elton rejects the view that Cromwell was hostile to parliament and favoured autocracy, and rejects, too, the alternative view that he was not seriously interested in parliament as an expression of constitutional rights. On the contrary, Dr Elton argues, Cromwell believed in the supremacy of statute, that is, of the crown in parliament. As part of his evidence, Dr Elton, who has counted the statutes as well as the pages of the statute book, shows that far more public acts were passed in the eight years of Cromwell's dominance than in the twenty-two years which preceded it, and only seventy-nine less than in the whole reign of Elizabeth. Or again, Cromwell's eight years require

[1] G. R. Elton, *England under the Tudors* (London, 1955), p. 168.

[2] R. B. Merriman, *Life and Letters of Thomas Cromwell* (2 vols., Oxford, 1902).

[3] G. R. Elton, *The Tudor Revolution in Government* (Cambridge, 1953).

[4] See e.g. Merriman, *op. cit.*, i, pp. 89–94.

[5] G. R. Elton, 'The political creed of Thomas Cromwell', *Transactions of the Royal Historical Society* (1956), 5th Ser., vi, pp. 69–92.

[6] *The Tudor Constitution*, ed. G. R. Elton, esp. pages 21–2, 283–86.

409 pages of the printed *Statutes of the Realm* while Elizabeth's whole reign takes up no more than 666 pages. I am myself reluctant to attempt to measure the quality of parliamentary government by weight; and I am not at all sure that the more statutes passed means the greater limits upon the crown's power. After all, four of Henry's marriages were ended either by nullification or execution, or both, and each needed a lengthy statute.

More important is a famous passage, cited by Dr Elton, in which Cromwell made an amusing comment to a correspondent about the deliberations of the House of Commons during 1523, deliberations which stretched on over seventeen weeks. Cromwell wrote:

> '. . . by long tyme I amongist other haue Indured a parlyament which contenwid by the space of xvij hole wekes wher we communyd of warre pease Stryffe contencyon debatte murmure grudge Riches pouerte penurye trowth falshode Justyce equyte discayte opprescyon Magnanymyte actyuyte force attempraunce Treason murder Felonye consyli . . . and also how a commune welth myght be ediffyed and also contenewid within our Realme. Howbeyt in conclusyon we haue done as our predecessors haue been wont to doo that ys to say, as well as we myght and lefte wher we begann.'[1]

Dr Elton tells us that he finds it 'a little difficult to understand why writer after writer has taken this amusing note to show contempt for Parliament'.[2] I do not share Dr Elton's difficulty. As I see it, this is the comment of a bored, impatient, cynical man who has suffered beyond endurance the unquenchable eloquence of the politicians. 'We might suspect even from this letter', writes Dr Elton, 'that Cromwell was fascinated by the work and potentialities of Parliament.' With respect, I should like to suggest that the fascination is somewhat muted; and that he is saying that the whole business dragging on over the last seventeen weeks has been a total waste of time. Robert Cecil, Earl of Salisbury, another vigorous minister, would have shared his opinion. The 'wisdom of former ages', he said, 'affected not long parliaments; they are

[1] Merriman, *op. cit.*, i, p. 313.
[2] *Ante*, 5th Ser., vi, pp. 79–80.

neither good for the king nor the people'.[1] Cromwell, like Cecil, wanted legislation not deliberation.

But this is evidence at the perimeter of the argument. More central to our problem is the matter of the Statute of Proclamations of 1539.[2] It must first be emphasized that we are talking about the statute—which is what the government got at the end—and not the bill—which was what the government wanted. The bill has not survived: all that we know about it is that it ran into stubborn resistance, long remembered; and all historians agree now that the demands of the government must have been larger than parliament or the statute would allow. It should, secondly, be stressed that the statute, in its final form, gave no large extension to royal authority. It used to be thought that it stood at the apex of the Tudor advance to autocracy; but, under scrutiny, the statute turns out to be rather a tame affair. It did not give the crown's proclamations the force of law, save in a limited sphere, and it restrained the crown from issuing proclamations which conflicted with the common law. The statute gave very little to the crown that it did not already possess. On this, too, all historians are now agreed.

But to earlier historians this celebrated statute seemed to present the gravest threat to the survival of self-government in England. The king's will as expressed in proclamations (so it was thought) would carry the force of law: statute would be superseded, consent would be unnecessary, parliament would atrophy. The central doctrine of Roman civil law—*quod principi placuit legis habet vigorem*—would be the dominant theme of English government and society. So Merriman and those who followed him believed.[3] How are we to explain this? I think that this error arose because earlier scholars paid too much attention to the

[1] *Proceedings in Parliament, 1610*, ed. Elizabeth R. Foster (New Haven and London, 1966), i, p. xi and ii, p. 301.

[2] 31 Hen. VIII, c.8. The English is here modernized. Large excerpts from it are printed in *Tudor Constitutional Documents*, ed. J. R. Tanner (Camb., 1922), pp. 532–35, and in *The Tudor Constitution*, ed. G. R. Elton (Camb., 1960), pp. 27–30.

[3] *Op. cit.*, i, pp. 123–25. But Maitland saw the significance of the supremacy of statute, namely that these powers derived from Parliament. F. W. Maitland, *The Constitutional History of England* (Camb., 1955), pp. 253–55. But once bestowed, how can these powers be withdrawn if the king does not choose to summon Parliament. See below, pp. 96–7, 98.

preamble and too little to clause II, which is the most important enacting clause. As we re-read the preamble, it is easy to see how the older interpretation of the statute arose:

> 'Forasmuch as the King's most royal Majesty for divers considerations by the advice of his Council hath heretofore set forth divers and sundry his Grace's proclamations, as well for and concerning divers and sundry articles of Christ's religion, as for an unity and concord to be had amongst the loving and obedient subjects of this his realm and other his dominions, and also concerning the advancement of his commonwealth and good quiet of his people, which nevertheless divers and many froward, wilful and obstinate persons have wilfully contemned and broken, not considering what a King by his royal power may do, and for lack of a direct statute and law to coarct offenders to obey the said proclamations, which being still suffered should not only encourage offenders to the disobedience of the precepts and laws of Almighty God, but also sin too much to the great dishonour of the King's most royal Majesty, who may full ill bear it, and also give too great heart and boldness to all malefactors and offenders; considering also that sudden causes and occasions fortune many times which do require speedy remedies, and that by abiding for a Parliament in the mean time might happen great prejudice to ensue to the realm; and weighing also that his Majesty (which by the kingly and regal power given him by God may do many things in such cases) should not be driven to extend the liberty and supremacy of his regal power and dignity by wilfulness of froward subjects; It is therefore thought in manner more than necessary that the King's Highness of this realm for the time being, with the advice of his honourable Council, should make and set forth proclamations for the good and politic order and governance of this his realm of England, Wales, and other his dominions from time to time for the defence of his regal dignity and the advancement of his commonwealth and good quiet of his people, as the cases of necessity shall require, and that an ordinary law should be provided, by the assent of his Majesty and Parliament, for the due punishment, correction, and reformation of such offences and disobediences;'

These are large claims; but when we come to the enacting

clauses we find that most of them have disappeared. Clause II excludes the royal power of proclamations from men's 'inheritances, lawful possessions, offices, liberties, privileges, franchises, goods or chattels'. The crown shall not by proclamation inflict the death penalty (save for heresy); it shall not infringe common law or statute. It is for these reasons that Professor Adair was able to argue that the statute was a relatively innocuous document designed to improve the judicial machinery of the prerogative to try certain cases, mainly those involving breaches of the Act of Supremacy. This may have been its effect but was it the design? Since this act is taken by Dr Elton to show that Cromwell was anxious to bring proclamation within the framework of statute, we must be careful to distinguish between design and effect, between the bill and the act. For if we assume that the intention, that is the bill, was so modest in aim, we are left with more unresolved problems than we faced in the time of Maitland.

We know that the original bill encountered severe resistance in both Lords and Commons. The first bill was thrown out and a new one prepared. But was a modest measure of administrative reform likely to suffer so stormy a passage? And why did so innocent a piece of legislation leave so nasty a taste in the mouth that the Protector Somerset hastened to repeal the measure in the first, fine, careless rapture of the new administration?[1] And here we come to the central puzzle—though it contains within itself its own explanation—why are the large claims of the preamble so profoundly at variance with the minimal powers claimed by the subsequent clauses?

We know from many of the statutes that the function of the preambles was to justify and explain whatever new powers the government was hoping to assume by means of the acts; that they were propaganda devices to state and defend a case; that they were declarations of intent. If that is so, then our statute of 1539 explains itself. The preamble is the declaration of government claims and intentions; the enacting clauses are all that it was left with. Professor Adair is, of course, right when he says that the resulting act brought no significant increase in the royal power.[2] But was that all that the government wanted? Certainly, Stephen

[1] I Ed. VI, c.12.

[2] E. R. Adair, 'The Statute of Proclamations', *Eng. Hist. Rev.* (1917), xxxii, p. 45.

Gardiner, who was involved in its making, thought otherwise.[1] Nor is the preamble so restricted. It deals with religion but it is concerned also with 'unity and concord', with 'the advancement of the common wealth' and—ominous and familiar Tudor phrases—the 'good and quiet of his people', with the 'boldness of all malefactors and offenders' and so on.

It is said, too, that the statute was not a threat to parliament for two reasons. In the first place, it rested on parliamentary consent. I am at a loss to see the force of this logic. Of course, parliament was the acknowledged source of this power of proclamations now to be confided in the crown; but, once the authority had been granted, why summon parliament? I do not believe in historical parallels but we are here speaking about fundamental constitutional law; and it is worth considering a modern example where the power of proclamation was conferred by a legislative assembly. In March 1933 the German Reichstag conferred on the Chancellor, Adolph Hitler, the right to govern by proclamation. The title of the law is itself interesting: it is the *Gesetz zur Behebung der Not von Volk und Reich*.[2] These words are extremely difficult to translate—the nearest I can get is 'Statute to meet emergencies of the Nation and State'—but the meaning is clear enough. To protect the German nation in a time of emergency, the Chancellor can issue edicts which have the force of law. These powers were to last for four years after which they were duly renewed by the Reichstag, and renewed periodically until May 1943, when they were again renewed, but this time by the Chancellor in his person. By this last measure, the modern German editor solemnly tells us in a footnote, the Chancellor acted unconstitutionally. But certainly it is true that everything that Hitler did before 1943 was within the framework of the law and the constitution although some of his deeds were the most barbarous in the history of mankind. They were autocratic but lawful, despotic but lawful because the supreme legislature had conferred sovereign law-making powers upon him. We in this country who watched the development of the German constitution, and who read the repeated assertions that Hitler's actions represented the will of the

[1] *The Tudor Constitution*, ed. G. R. Elton, p. 24.

[2] Cited in E. R. Huber, *Dokumente zur Deutschen Verfassungsgeschichte* (Stuttgart, 1966), iii, p. 604. I owe this reference to Professor Francis Carsten.

consenting German nation, can no longer use the word consent until we know how that consent was obtained.

It is argued, secondly, that proclamations were not in any case thought of as a substitute for parliamentary legislation. We return to the preamble, where we read—and this is by no means limited to ecclesiastical matters—

> 'considering also that sudden causes and occasions fortune many times which do require speedy remedies, and that by abiding for a Parliament in the mean time might happen great prejudice to ensue to the realm'.

By abiding for a parliament. This may, of course, be read simply as the right to take emergency measures during the few weeks required to summon and assemble a parliament. But to pass emergency—or controversial—measures through parliament might require a great deal more time than this. Implicit in the preamble, then, is the assumption that the crown in its person can act as legislator at such times as it alone determines that an emergency exists. The crown in its person as legislator is a despotism.

My evidence so far has been drawn from the preamble which, I have argued, says quite different things from the enacting clauses. In the light of these clauses we must, of course, reject Merriman's view that the statute was 'the most drastic of the measures which Cromwell adopted to strengthen the power of the crown'.[1] But supposing, in the light of the preamble, we alter the word 'adopted' to 'proposed', have we not a fair description of the ambitions revealed in the preamble?

We are fortunate in that Cromwell elsewhere gives us a clue to his processes of thought. In 1535—so he told the duke of Norfolk—he had sought the opinion of the senior judges as to whether proclamations were valid to stop the carrying of coin out of the country. The Lord Chief Justice replied in the affirmative. I quote Cromwell's account of it: 'the Kynges hyghnes by the aduyse of his Cownsayll myght make proclamacyons and vse all other polecyes at his pleasure *as well in this case as in anye other lyke*'. These proclamations, Cromwell was informed, 'sholde be of as good effect as any law made by parlyament or otherwyse'.

[1] R. B. Merriman, *op. cit.*, i, p. 123.

'Which oppynyon', Cromwell blandly concluded, 'I assure your grace I was veray gladde to here.'[1]

This passage has been taken by Dr Elton to mean that 'Cromwell continued to prefer a statutory basis to a common law one'. And this, he adds, is 'a common feature of the legislation passed in the fifteen-thirties and under his aegis'.[2] What is in dispute, however, is whether these methods led to a limited monarchy and prove, therefore, that his aims were not despotic. It is this assumption—that the use of statute is somehow hostile to despotism—which, I suggest, the evidence does not sustain. Of course Cromwell preferred to support every extension of the royal power by statute: that made it all the more powerful and all the more secure; and it gave it the illusion of popular consent. To the simple question: why did the government of 1539 use parliament in trying to give authority to its proclamations, the answer is also simple: there were no other means open to it if it wanted to gain these powers lawfully. But is a thing less tyrannical because it is lawful? Hitler's destruction of German liberty was fully buttressed by law. Was Henry VIII's use of an act of attainder to destroy Cromwell any the less despotic because he used parliamentary processes? It is well to be reminded by Pollard that Henry VIII would do nothing unless it was lawful or could be made lawful.

In the case of the Statute of Proclamations some of the pieces in the jigsaw puzzle are missing; and all who have written on it have inevitably had to use some measure of speculation. But such evidence as we have supports the view that Gardiner was right when he saw in the debate pressure on the crown to respect parliament and the common law; that the members of the House of Commons were right when they disputed it, blocked it, mutilated it; that John Aylmer was right when, twenty years later, he described those who opposed the bill as 'good fathers of the countri and worthy commendacion in defending their liberty';[3] that James I was right when, long afterwards, he declared that 'the king's seeking in that point was tyrannical'.[4] We note the

[1] R. B. Merriman, *op. cit.*, i, p. 410.

[2] G. R. Elton, 'Henry VIII's Act of Proclamations', *Eng. Hist. Rev.* (1960), lxxv, p. 220.

[3] Cited by Elton, *Eng. Hist. Rev.* (1960), lxxv, *loc. cit.*

[4] *Ibid.*, *loc. cit.*

word 'seeking'. James I was referring to the strength of the bill, not the weakness of the act. And so are we.

The historian of government is concerned with aims no less than achievements, with the failures of governments no less than with their successes. In asking ourselves whether there was a Tudor despotism we are also asking whether the government was trying to establish a Tudor despotism. I think that the events of 1539 mark a failure on the part of the government and may have been the first premonitory signs, as far as the king's minister was concerned, that the sands were running out.

But we have still to face the issue of consent. Whatever one's views on Cromwell's aims in using parliamentary legislation, the fact is that all these measures were dependent on the consent of both Houses; and we must look, therefore, at the nature of consent in sixteenth-century England. It would be unreasonable for us to argue that Tudor parliaments should have been entirely representative bodies elected by universal suffrage. But it is equally unreasonable to argue as though they were. The material we have considered so far shows no evidence that Henry VIII, Cromwell or anyone else in authority saw in parliament anything other than a useful instrument for providing revenue, for giving teeth to a strong policy, and for adding the weight of parliament to the powers and decisions of the crown. But where in all this is *consent*? And consent by *whom*? Those who argue that the Tudor crown was not despotic must prove that the people, or their representatives, were actively involved in the decisions of government. If they were not, then decisions were made elsewhere. It is necessary then to ask all over again the basic question which nineteenth-century historians were asking, and to which they got an answer, and which for various reasons we stopped asking altogether, although new material and approaches are now available to us. Our question is: how representative was parliament and how freely did these representatives—if they were such—speak? Upon the answers to these questions, the rest of my paper must stand or fall.

The method of Tudor representation in parliament is so well known that it need only be briefly rehearsed.[1] The best contem-

[1] The standard modern account is J. E. Neale, *The Elizabethan House of Commons* (London, 1949). See also *The Tudor Constitution*, ed. G. R. Elton chapter 8.

porary statement on the structure of parliament is in Sir Thomas Smith's *De Republica Anglorum*, written in 1565.[1] After declaring that parliament (we may take this to mean the crown in parliament) is supreme in legislation, he writes '. . . everie Englishman is entended'—i.e. understood—'to bee there present, either in person or by procuration and attornies, of what preheminence, state, dignitie, or qualitie soever he be, from the Prince (be he King or Queene) to the lowest person of Englande. And the consent of the Parliament is taken to be everie man's consent'.[2]— Taken by whom? As it happens, Smith devotes other chapters to analysing the class structure of England; and there we read of its four main divisions: the monarch; aristocrats, knights, squires and gentry; yeomen; and what Smith describes as 'the fourth sort of men which doe not rule'. He lists these as 'day labourers, poore husbandmen, yea marchantes or retailers which have no free lande, copiholders, and all artificers, as Taylers, Shoomakers, Carpenters, Brickemakers, Bricklayers, Masons, &c'. And he goes on to underline that 'These have no voice nor authoritie in our common wealth, and no account is made of them but onelie to be ruled, not to rule other'. He adds that they play some part in local affairs, as churchwardens, alecunners, constables, and as jurymen, if yeomen are not available; but, in general, matters of commonwealth are out of their range.[3] Now, a most conservative estimate of these men would put them at far above fifty per cent of the male inhabitants of England. At once, our political electorate falls to a minority of the population, and is reduced still further by the fact that some at least of the others held land worth less than forty shillings per annum, the minimum necessary for the county suffrage. In many cases the leading factions in the shire reached agreement as to who should be elected. In the boroughs the electorate was almost invariably a minority and, in many of these cases, election was by patronage, that is, some nobleman, privy councillor or other worthy had the free and independent nomination of one or both members of parliament for the constituency. We don't yet know the figure for this in the early period but we know, thanks to the work of Sir John Neale, that the landed gentry and their patrons

[1] Sir Thomas Smith, *De Republica Anglorum*, ed. L. Alston (Cambridge, 1906).

[2] *Ibid.*, p. 49.

[3] *Ibid.*, p. 46.

had by the end of the sixteenth century captured four-fifths of the borough seats.[1]

Patronage is related to packing but the degree of packing is hard to establish in detail until we have worked out the relationship between ministerial patronage and privy council policy.[2] But this we do know. Thomas Cromwell himself in 1536 forced the Canterbury constituency to repudiate the candidates it had elected and choose his nominees;[3] while of the parliament of 1539 itself he told Henry VIII that he was about to carry through a nice piece of packing 'forasmoche as I and other your dedicate conseillers be aboutes to bring all thinges so to passe that your Maiestie had never more tractable parlement.'[4] Cromwell may, of course, have been lying. A falling minister may do anything and claim anything in the effort to rehabilitate himself. But, in any case, it reveals what Cromwell would have liked to do and indicates the framework of his concept of government. It is Maitland, surely, who puts his finger on the crux of the matter. '. . . This very tractability of parliaments', he writes, 'serves in the end to save and to strengthen the parliamentary constitution; parliament is so tractable that the king is very willing that king in parliament should be recognised as supreme—it strengthens his hands that what he does should be the act of the whole nation.'[5] I think that there is a fruitful comparison to be made here between the subsequent histories of the English Parliament and the French Estates-General.

I know of no measure instituted by Cromwell, efficient and able minister that he undoubtedly was, which was not aimed at increasing the efficiency and strength of the crown. What else should an efficient and able sixteenth-century minister aim at—a liberal constitutionalism? Good government, as he indicated to Henry VIII, required a subservient parliament. Beyond a subservient parliament would be a crown which could govern by edict, that is, proclamation. This last prospect was not fulfilled. His power did not measure up to his will. It looks as though the

[1] J. E. Neale, *Elizabethan House of Commons*, pp. 147–48.

[2] The chronicler Hall believed that in the 1529 Parliament, 'the most parte of the commons were the kynges seruauntes' (London, 1809 ed., p. 767).

[3] *The Tudor Constitution*, ed. G. R. Elton, pp. 289–91.

[4] R. B. Merriman, *op. cit.*, ii, p. 199.

[5] F. W. Maitland, *The Constitutional History of England*, p. 252.

resistance he encountered was greater than he expected; and he was left with an emasculated Statute of Proclamations, unhappy portent of his own crumbling power.

On the basis of what we know, the House of Commons consisted of a minority of a minority of the population, while the members of the House of Lords, as contemporaries were aware, represented no one but themselves. Within the limits of such an institution we may, if we wish, speak of a partnership, provided that we see the House of Lords as becoming increasingly a pocket borough of the crown, and the House of Commons as elected to a large extent under ministerial and aristocratic patronage.

We turn from what parliament was to what parliament did. We know that, if the crown wanted to impose direct taxation, the consent of parliament was essential; and we should not minimize the importance of the House of Commons in this sphere. For the power to withhold money was used, in Tudor times, to inaugurate debates on government policy; and, although the government repudiated any right on the part of the Commons to infringe its prerogative, in practice taxation gave the Commons a voice that was heard—but not necessarily attended to—in the higher councils of the state. Nor should anything in this paper be taken to imply that the Commons submissively approved of the legislation proposed to it. Debate could be prolonged, modifications could be substantial, as we have already seen in the Statute of Proclamations. But, when all is said, the first and the last word rested with the crown. Although Henry VIII could say in 1543, 'we at no time stand so highly in our estate royal as in the time of parliament',[1] it is none the less true that all Tudor monarchs behaved as though parliaments were no more than regrettable necessities. 'It is in me and my power . . .', said the Lord Keeper in the queen's name in 1593, 'to call Parliaments, it is in my power to end and determine the same; it is in my power to assent or dissent to anything done in Parliaments.'[2] This was no more than a statement of the facts as they had always been.

No less significant is the kind of legislation which did pass, whether by management or a general sense of a common interest. No one now believes that the Reformation was an act of state

[1] *The Tudor Constitution*, ed. G. R. Elton, p. 270.
[2] *Ibid.*, p. 313.

carried through at the will of the government. But, by contrast, does anyone believe, as Froude did, that it represented an upsurge of the national will? The monarch and a considerable section of his parliamentarians—how far speaking for the nation in this policy we simply do not know—moved step by step towards an Anglican settlement, although they differed among themselves as to what exactly that could be taken to mean. But that settlement required powerful sanctions: to deny the supremacy of the crown was high treason. And the supremacy was enforced. So was the ideology. Parliament, public office, university education, became the preserve of those who were identified with the established church. We sometimes forget that in the second half of the sixteenth century, throughout the whole of the seventeenth century, the whole of the eighteenth, and until 1826, when University College, London was founded, university education in England and Wales was restricted to those who could affirm their acceptance of all Thirty-Nine Articles. Or again, there were nine different treason laws in the reign of Henry VIII alone, hardly a demonstration of a secure government resting equably on the support of the people.[1]

Consent voluntarily given: we are still in search of evidence that this was a free society in which men reached their decisions by the reasonable processes of free discussion. And in this, I think, we can look at the problem differently from our nineteenth-century predecessors. For we have witnessed in our own lifetime the emergence and misuse of a mass medium of communication of gigantic proportions. We have also seen the rapid growth of a related abuse in the shape of the public relations officer, often a hired propagandist. Now the thing which makes Tudor governments different from all those which went before was the emergence, for the first time, of a mass medium, the printing press, an instrument of enormous power. The word 'propaganda' we owe to the Jesuits but the thing itself is older than the word. We know, too, that the government held a tight grasp on parliament, the pulpits and the printing press and strove, not always successfully, to silence the expression of dissentient opinion, in both the spoken and the written word. The government fully recognized the danger of dissent and fought it with a powerful

[1] *Cf.* F. W. Maitland, *The Constitutional History of England*, p. 227.

body of writers who poured out, often under Cromwell's direction, a stream of pamphlets whose sole object was to justify the king's ways to men. Thomas Starkey, Richard Morrison, William Marshall learned and used the arts of political persuasion; but outside this group, also, there was a steady dissemination of literature in defence of the existing order. We need only list some of the titles of works in circulation: *Exhortation to Unity and Obedience*, *The Obedience of a Christian Man*, *The Hurt of Sedition*, *De Vera Obedientia*. And this is the Speaker of the House of Commons, Richard Rich, a follower of Cromwell, addressing parliament in 1536.[1] Henry VIII, he said, was 'worthily and rightly to be compared to Solomon on account of his wisdom and justice, to Samson on account of his strength and courage, to Absalom on account of his form and beauty'. In the 1540s convocation discussed the publishing of homilies for the use of uneducated or unreliable clergy; and the first series was issued in 1547, one more channel for the dissemination of officially acceptable opinion. One passage must suffice:

> 'Take away kings, princes, rulers, magistrates, judges, and such states of God's order, no man shall ride or go by the highway unrobbed, no man shall sleep in his own house or bed unkilled, no man shall keep his wife, children and possessions in quietness, all things shall be common, and there must needs follow all mischief and utter destruction both of souls, bodies, goods and common wealths'.[2]

Nor should we forget John Foxe's *Acts and Monuments* which—whatever its intention—did yeoman service to the Tudor conception in church and state.[3]

To understand the relationship between the Tudor people and their governments, it is essential to take into account that this was minority rule, an uneasy and unstable distribution of power

[1] *Lords Journal*, i, p. 86.

[2] Cited in F. Le Van Baumer, *The Early Tudor Theory of Kingship* (New Haven, 1940), pp. 104–05.

[3] 'Sacred monarchy was the most operative politico-religious idea of the 16th century, and it was John Foxe who provided a historical justification for the peculiar form of it which underlay the Tudor assumption of supreme authority in both Church and State.'—Frances Yates in review of Foxe's *Book of Martyrs*, ed. and abridged by G. A. Williamson, in *Encounter* (1966), xxvii, p. 86.

between the crown and a social *élite* in both the capital and the shires; and that this governing class, this *élite*, itself played a double role: it was under pressure to conform and was at the same time the channel of communication for a vast mass of propaganda in defence of the existing order, pumped out through press and pulpit, through preambles to acts and through proclamations read out in the market place, through addresses to high court judges in Star Chamber and by high court judges at the assizes, through all the pageantry and symbolism of royal progresses. All this functioned under a heavy censorship which, for all its clumsy ineptitude, struck hard at independent thinking. After 1529 the supervision of book publishing passed from the Church to the privy council. In 1536, 1538 and 1546 proclamations were issued tightening this control.[1] 'Between 1532 and 1547', writes Professor Baumer, 'the government alone prescribed the intellectual diet of the English public, and seldom was the latter permitted to partake of forbidden fruit.'[2] Here was a despotism in the making, sometimes of the crown over Parliament, more often of the crown in Parliament over the nation. This is what I mean by the dual role of the *élite*.

Yet one should not minimize the difficulties facing the Tudor monarchs and statesmen trying to set up strong, centralized government with only a rudimentary administrative machine, with slender financial resources and even more slender military ones. If, then, our question is: was there a Tudor despotism which managed to hold in submission the whole nation against its will and interests, then the answer must be an emphatic No. There can indeed have been few despotisms in the history of the world to which, by these standards, we could apply the term. But if we formulate our question realistically and ask: did the Tudors break by force every movement of political and religious dissent; did they prohibit the expression of contrary opinion by every means at their disposal; did they evolve a propaganda machine of formidable proportions and of great subtlety and range which was directed to establish that the state policy was always just and right and that the head of the state stood in a special and direct relation to God; did the crown already possess, or obtain, control of foreign policy, religious doctrine and practice and, at the

[1] Baumer, *op. cit.*, pp. 220–21. [2] *Ibid.*, p. 224.

same time, possess an enormous reservoir of emergency power; were ministers responsible to the crown alone, being appointed at its will and dismissed (and sometimes executed) at its will? Looked at in this way, an entirely different answer to our question suggests itself.

But no government, however despotic, can be conducted by one man. He needs not only a group of ministers to carry out his will but a sufficiently influential section of his people to support him. That such support was given to the Tudors there is no reason to doubt, but the degree and nature of support we are unable to say: historians are only now beginning to ask questions about the *élite* in Tudor society. What we do know is that on many occasions the majority of parliamentarians—elected in one way or another—tended to support the government, and, similarly, support was largely given in the provinces. But in the provinces there existed also a large measure of resistance in the governing class itself, capable of nullifying the policy it was instructed to enforce. We know this, in particular, in agrarian and ecclesiastical matters. Over and over again, the medieval conception of a King subject to the law disseminated ideas inherently hostile to an autocratic state. It would, of course, be idle to argue that the monarchy pressed forward with its policy in the teeth of opposition from its governing classes. On the contrary, I have argued that, with at least a section of that class behind it, the crown was able to employ the existing apparatus of government and communication to try to impose official policy on the rest of the nation

In all this the role of parliament was complex and ambiguous. It was an active source of strength but a potential source of weakness. In a positive sense it turned the will of the government into the declared will of the nation. That is what Henry VIII was saying when he declared that 'We at no time stand so highly as in the time of Parliament.' But, from the crown's point of view, support by parliament must never mean dependence on it. That is why Henry VII made clear that he was king as of right and before his first parliament was assembled. That is why all the great Reformation statutes affirm that the supreme ecclesiastical powers are the king's as of right, parliament merely confirming these powers and imposing penalties for dissent. But if a few

hundred men are brought together in a hall to approve legislation they will also discuss it and criticize it, as the Tudors learned to their embarrassment and the Stuarts learned to their misfortune. There was one way out of this dilemma: for parliament voluntarily to give up its authority and vest it in the crown. At that moment the King in parliament and the king in his person would become identical and the last constitutional barrier to royal supremacy would fall. That, it seems to me, was the purpose of the bill of proclamations of 1539. It failed; and that failure put out of reach the prospects of a full despotism in Tudor England.

My object in preparing this paper was to re-open the whole question as to how far government policy was enforced upon the nation rather than made by it. I have perforce concerned myself mainly with the first half of the sixteenth century; but I hope at another time and place to re-examine the same problem in the reign of Elizabeth I. I have not mentioned a single new document but only material which is perfectly well known to historians. Reading these again, I have asked myself increasingly often in recent times: how is it that this material, and a good deal like it, has come somehow to mean that this was government by consent? How can we call it consent when we know that the avenues of dissent were deliberately closed by policy? It is true, as I have acknowledged, that there was no standing army but it was always possible to raise sufficient forces to suppress the Pilgrimage of Grace, the rising in the west, Kett's Rebellion, Wyatt's Rebellion and the Rising of the North. And if English arms did not suffice, there were foreign mercenaries to be called upon, as Warwick did in 1549. This is not for one moment to imply that strong government was not essential. I myself believe that without strong government England might have been the scene of civil war and foreign invasion. If the government was to carry its policy through, some kind of a despotism was essential. It is for those who believe that this was a limited monarchy functioning by consent to explain how it managed to survive without the powerful controls essential to an embattled government alone in a hostile world.

During these formative years of the Tudor state, there existed the need and the opportunity to establish strong central government because of the nature of the crisis itself and the public awareness of that crisis. But there was also danger—a danger that,

in the drive towards power, the monarchy might so enlarge its authority as to take on the shape of an autocracy, which is, in fact, what happened in France. Of this danger percipient statesmen in England were fully aware: 'Master Cromewell', said Thomas More to the king's great minister, 'you are nowe entered into the service of a most noble, wise and liberall prince. If you will followe my poore advise, you shall, in your councell-gevinge vnto His Grace, ever tell him what he owght to doe but never what he is able to doe . . . For if [a] lion knewe his owne strength, harde were it for any man to rule him.'[1] The man who made this remark, and the man to whom it was made, was each in his turn crushed in the path of the advancing Tudor state they served. If the government of Henry VIII failed to establish, in the fullest sense, a Tudor despotism, it was not for want of trying.

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[1] W. Roper, *The Life of Sir Thomas Moore, Knighte*, ed. Elsie V. Hitchcock (*E.E.T.S.*, Oxford, 1935), No. 137, pp. 56-57.

THE NORMAN CONQUEST

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READ 12 NOVEMBER 1966

THOUGH with the passing of October 14 the major junketings are perhaps over, the year is still 1966, the nine-hundredth anniversary of the Norman Conquest of England, and such an occasion, I trust, is a sufficient excuse for reading a paper to you on the subject.[1] There are many more qualified than I to undertake the task, but at least I can claim to have been working—though scarcely alone—on a book about the Conquest over the last few years, and the vastly enjoyable experience has prompted certain thoughts which become increasingly strongly held as I progress. Some of those thoughts I should like now to put together into what I hope may be a coherent pattern.

In England few subjects have been studied for longer than the Norman Conquest, and few have been, at least in the past, more bent and twisted in the process by misinterpretation caused by unhistorical considerations and emotions. Some twenty years ago, in a paper as entertaining as it is erudite, Professor David Douglas drew the outlines of the historiography of the Norman Conquest, and there is no need for me to repeat here what he wrote.[2] I do, however, want to stress two points. First, one element which has sometimes bent and spoilt the study of the Conquest in this country, and led to its misinterpretation, is the emotion of anachronistic nationalism, and while this reaches its notorious high-water mark in the great work of Edward Augustus Freeman's *Norman Conquest*,[3] one is sometimes led to wonder if it has entirely subsided even now in the second half of the twentieth century. It seems to me important to resist the instinctive temptation to regard the Anglo-Saxons (who, in 1066, are

[1] The substance of this paper is drawn from a forthcoming book on the Norman Conquest to be published by Constable, especially from Chapter IV.

[2] D. C. Douglas, *The Norman Conquest and British Historians* (The David Murray Lecture for 1946, Glasgow, 1946).

[3] *The History of the Norman Conquest of England* (Oxford, 5 vols., 1867–1879).

far better called Anglo-Scandinavians) sympathetically as 'us', and the Normans, with less sympathy, as 'them'. Second, another element in English historical studies of the subject which I want to stress is the steadily increasing favour shown to the Anglo-Saxons (or Anglo-Scandinavians) during the last half-century, which so far shows no obvious signs of stopping. Roughly speaking, fifty years ago there was little good that could be said of pre-Conquest England, and most of the many good things to be found in the Anglo-Norman, Angevin, and later medieval English kingdom sprang and resulted from Normandy and the Norman Conquest. Now the case is otherwise, and the pendulum of historical opinion has swung the other way. This swing can be very clearly seen in the life-time's work of one of our greatest living historians of the period, Professor Sir Frank Stenton, who has himself been a pioneer in the change of interpretation. Thus the contrast is manifest between his *William the Conqueror*, first published in 1908,[1] and his *Anglo-Saxon England*, first published in 1943.[2] In the latter case, but scarcely in the former, a sympathetic praise and appreciation of Anglo-Saxon achievement is found at almost every turn, and not least in the creation of a strong monarchy ruling over a politically united kingdom. By comparison with England, 'Normandy in the mid-eleventh century was still a state in the making',[3] and the Normans have now much less to offer than they had in 1908—they are 'a harsh and violent race . . . the closest of all Western peoples to the barbarian strain in the continental order. They had produced little in art or learning, and nothing in literature, that could be set beside the work of Englishmen.'[4] So far, perhaps, so good: but unfortunately matters have not been allowed to remain where Stenton's magisterial survey left them. Professor Stenton is in no doubt of the impact of the Normans upon England—'politically they were the masters of their world',[5] and, in spite of many points of continuity between pre-Conquest and post-Conquest England, 'the fact remains that sooner or later every aspect of English life was changed by the Norman Conquest'.[6] But mean-

[1] F. M. Stenton, *William the Conqueror and the Rule of the Normans* (London, 1908).

[2] F. M. Stenton, *Anglo-Saxon England* (Oxford, 1943).

[3] *Ibid.*, p. 546. [4] *Ibid.*, p. 678. [5] *Ibid.* [6] *Ibid.*, p. 677.

while other voices, notably from Manchester,[1] have sought to rob the Normans even of credit for the introduction of feudalism into England, safely theirs since Stenton and John Horace Round, and the most extreme general statements so far—which seems frighteningly to echo the aggressive nationalism of Freeman—was made as recently as 1963: 'for half a century or so from 1066 the English way of life was not sensibly altered. The Normans had very little to teach, even in the art of war, and they had very much to learn. They were barbarians who were becoming conscious of their insufficiency.'[2] It is this extreme swing in historical opinion, and its justification, that I want to examine this afternoon, for it seems to me that in English historical studies in this present century the influence of the Anglo-Saxons (or Anglo-Scandinavians) has increased, is increasing, and ought to be diminished. I believe there is now a marked tendency to over-praise pre-Conquest English achievement in almost every field from government to art and learning. Modern historians are generally agreed upon the achievements of Anglo-Norman and Angevin England in the post-Conquest period, and the question is who, English or Norman, contributed most to this result. In answering it, emphasis has come to be placed more and more upon continuity, and upon the Old English contribution, to the inevitable diminution of the Norman. I have no doubt myself that the process has gone too far and should be reversed, and I make no bones about stating my own position, which approaches that of Carlyle—'Without the Normans, what had it ever been?'[3]

One may begin by suggesting that one of the principal causes—perhaps the main cause—for the change of opinion about pre-Conquest England over the last fifty years has been the modern, twentieth-century interest in the study of government and governmental techniques, *i.e.* in Administrative History,[4] together with the misinterpretation of the evidence it provides. As a

[1] Eric John, *Land Tenure in Early England* (Leicester, 1960), ch. VIII and, *e.g.*, p. 160.

[2] H. G. Richardson and G. O. Sayles, *The Governance of Medieval England from the Conquest to Magna Carta* (Edinburgh, 1963), p. 27.

[3] Thomas Carlyle, *Frederick the Great* (London, 1900), i. 263.

[4] *Cf.* Stenton, writing in 1908 that late Anglo-Saxon England had 'no administration worthy of the name' (*op. cit.*, p. 22).

result it is commonly supposed that there was in England on the eve of the Conquest a quite exceptional development of government, both central and local,[1] and a remarkable evolution of sophisticated techniques of administration well in advance of other contemporary states in Latin Christendom, including the duchy of Normandy. And the implications drawn are of a precocious people,[2] a strong, centralized monarchy, and a politically united realm. In this view there are already in England, long before 1066, clear indications of a notable specialization of function, both for fiscal and secretarial business, within the central government, *i.e.* in the itinerant royal household, the *curia regis*, while the great problem of local government was solved principally by the shire-reeve or sheriff, the direct royal agent and representative in every shire. Yet it is as easy to exaggerate the degree of development of pre-Conquest English government along these lines as it is important not to. The evidence for any considerable specialization of function, and thus for embryonic 'departments of state' at the centre, in the royal household, is tenuous and indirect.[3] There is, after all, no reference in England before the Conquest either to a 'Treasury' and a 'Treasurer', or to a 'Chancery' and a 'Chancellor'. On the financial side, the geld was a national tax, impressive by the standards of the age, though characteristic of a surviving Carolingian monarchy such as pre-Conquest England; it is evident that it called for fairly sophisticated administration, but such inferential evidence as there is points to some fixed local organization, probably at Winchester and elsewhere, rather than to much specialization in the household.[4] On the secretarial side, the case for a royal *scriptorium* or 'writing-office' within the royal court depends almost entirely upon the diplomatic evidence (shape, form and phraseology) of the two principal types of contemporary docu-

[1] V. H. Galbraith, *Studies in the Public Records* (London, 1948), ch. II. *Cf.* R. R. Darlington, 'The Last Phase of Anglo-Saxon History', *History*, xxii (1937–38), and his *Norman Conquest* (Creighton Lecture 1962, London, 1963).

[2] Galbraith, *op. cit.*, p. 36.

[3] For what follows see especially G. Barraclough, 'The Anglo-Saxon Writ', *History*, xxxix (1954), and F. Barlow, *The English Church, 1000–1066* (London, 1963), pp. 120 ff.

[4] *Cf.* Barlow, *op. cit.*, p. 123, n. 3.

ments running in the king's name, *i.e.* the diploma and the writ.[1] But, for the former, though it can be argued that in Athelstan's reign (923–39) and for some time afterwards royal diplomas show a degree of uniformity consistent with official production in some permanent office (generally assumed to be within the household[2]), the diplomatic evidence for all other periods of the Old English kingdom points in the reverse direction, and it seems clear that both before and after the tenth century, including the years immediately prior to 1066, royal diplomas were commonly drawn up by the beneficiary.[3] It has been suggested that in the latter period this is because the function of the old-fashioned and inefficient diploma was then being taken over by the more efficient writ,[4] whose diplomatic uniformity and business-like, bureaucratic characteristics seem to argue strongly for a common origin and an established official source, presumably the royal court. But when, in fact, it appears that not only the diploma but also the writ could be written by the beneficiary,[5] it becomes apparent that the evidence for the existence of an established secretariat within the household of pre-Conquest kings is a good deal less than satisfactory.[6] This being so, perhaps more attention than is commonly the case should be given to the tradition preserved at Ely in the twelfth century[7] that King Ethelred had given the office of chancellor in the king's court (*in regis curia cancellarii . . . dignitatem*) jointly to the abbots of Ely, Glastonbury and St. Augustine's, Canterbury.

[1] For the sealed writ, see F. E. Harmer, *Anglo-Saxon Writs* (Manchester, 1952); T. A. M. Bishop and P. Chaplais, *Facsimiles of English Royal Writs to A.D. 1100* (Oxford, 1957). For the diploma, see F. M. Stenton, *The Latin Charters of the Anglo-Saxon Period* (Oxford, 1955).

[2] But *cf.* Galbraith who expresses doubt on the assumption (*op. cit.*, p. 32).

[3] *Ibid.*, p. 35; Harmer, *op. cit.*, pp. 38–41; Barraclough, *op. cit.*, p. 212.

[4] Galbraith, *op. cit.*, p. 35.

[5] Bishop and Chaplais, *op. cit.*, pp. xii–xiii (two examples, *temp.* Edward the Confessor); Harmer, *op. cit.*, p. 20 (a possible further example, *temp.* Edward the Confessor); P. Chaplais, 'Une charte originale de Guillaume le Conquérant', in *L'abbaye bénédictine de Fécamp* (2 vols., Fécamp, 1959–60), i, 96 (one example, *temp.* William Rufus). For some objections to some of these examples, see Darlington, *Norman Conquest*, p. 4, n. 1.

[6] *Cf.* Barlow, *op. cit.*, p. 128.

[7] *Liber Eliensis*, ed. E. O. Blake (Camden, 3rd Series, xcii, 1962), pp. 146–47 (No. 78), and *cf.* p. 153 (No. 85).

'The abbots of these houses were for the future to divide the year among them, together with the administration of the sanctuaries and other ornaments of the altar. The abbot of Ely used to enter upon his period of ministration on the day of the Purification, at the beginning of February; and so the abbot himself, or whichever of the brothers he named, reverently and diligently acted in that office for four months, that is the third of the year; after which the others, mentioned above, in turn acted for the rest of the year.'

The use of the title 'chancellor' carries no significance in a twelfth-century source, but there is no obvious need to doubt the general truth of the tradition. Such an arrangement (which, we are further told, lasted until the Norman Conquest[1]), whether we interpret it to mean that the three abbots or their deputies resided at court during their term of office, or that royal secretarial business was put out in turn to the three conveniently situated abbeys,[2] is a substantial diminution of the generally accepted notion of a highly developed *scriptorium* within the household, staffed by royal clerks. Either interpretation would seem to fit the required conditions both of an early and simple stage in the development of royal bureaucracy and of a production of consistently uniform writs, while the latter may also invite comparison with the contemporary arrangements in Normandy where there is some indication that the abbey of Fécamp served at times as a ducal chancery.[3]

As for the sealed writ itself, it is this above all which has excited modern historians and has led to an over-emphasis upon the precocious efficiency of Old English government on the eve of the Norman Conquest. There is, of course, no doubt of the writ's importance, though one may hesitate to see it and its pendent seal as 'contributions to the civilization of Western Europe scarcely less important than the Era of the Incarnation which was the

[1] 'Donec Anglia sub Normannorum iugo misere depressa ex omni pristino spoliatur honore.'

[2] *Cf.* Barlow, *op. cit.*, p. 126.

[3] Marie Fauroux, *Recueil des Actes des Ducs de Normandie* (*911–1066*) (Mémoires de la Société des Antiquaires de Normandie, Tome xxxvi, Caen, 1961), p. 42. It may be added that Miss Harmer duly noted a 'family resemblance' among Anglo-Saxon writs in favour of the same house (*op. cit.*, p. 57).

discovery of Englishmen of Bede's age'.[1] Immediately, it stands as an ingenious—though not entirely original[2]—Anglo-Saxon invention, and, more futuristically, as the *fons et origo* of all later and post-Conquest royal deeds and administrative instruments—charters, letters patent and letters close, and, later still, letters under the privy seal and signet. It was also to be exported to the Continent, though not, significantly, until after 1066 except for Scandinavia.[3] Short, sharp and to the point, relatively quick and easy to produce and easy also to carry, it was above all authenticated by the royal seal which, certainly in Edward the Confessor's reign and probably in Cnut's, was a two-faced pendent seal, and, as such, unique in Western Europe at that time. But the earliest authentic writ dates only from the reign of Ethelred II, and the earliest extant two-faced pendent seal is that of Edward the Confessor. Before those dates all is conjecture, and since it is not permissible to assume that literary references to the king's *gewrit* and *insegel* imply his sealed writ, the sealed writ may well be only the invention of the early eleventh century.[4] Nor are we entitled to suppose that it was widely and commonly employed before 1066. It was used by the late Old English kings as a title deed, *i.e.* to announce the grant of land or privilege, though even in this function it had by no means yet replaced the ancient diploma. Of its use for general administrative purposes to convey the king's will to his officials it is very difficult to find any positive evidence,[5] though it can be argued that such writs, being ephemeral, have

[1] Darlington, *History*, xxii (1937–38), p. 9; R. L. Poole, *Chronicles and Annals* (Oxford, 1926), p. 26.

[2] For the Frankish mandate, sometimes sealed (though *en placard*), see Harmer, *op. cit.*, pp. 30–34. For the fundamental distinction between sealing to close and sealing open in the manner of the writ, see Barraclough, *op. cit.*, p. 207.

[3] *Ibid.*, pp. 194–95.

[4] *Cf.* Barraclough, *op. cit.*, pp. 199 ff.; Barlow, *op. cit.*, p. 128.

[5] Amongst writs whose text has survived, it is possible to speak of some dealing with geld as 'administrative' writs, but in fact they deal with assessment and so really fall into the category of grants or privileges, for which reason they were kept by the grantee (see Harmer, *op. cit.*, pp. 19, 32, and Nos. 15, 29, 66, 107). A reference as late as 1051 to the king's *gewrite* and *insegle* for the election of a bishop may be acceptable as a reference to a sealed writ, but even so such a writ would be more a kind of title-deed to office—on the analogy of thirteenth-century letters patent—than an administrative writ in the sense of a mandate to an official to do something (see Harmer,

not survived. It is not safe, therefore, to make the Anglo-Saxon sealed writ bear the great weight of government which is sometimes placed upon it. It is unlikely to have been the normal written link between the king and the provinces in the day to day business of administration. It is equally unlikely, therefore, to have done much to solve in England the great contemporary problem of remote control and local government. Nor was that problem especially well solved before the Conquest by the effective use of royal officials. The bishop, though sometimes addressed as the 'shire-bishop',[1] had other things to attend to than secular administration; the great earls of pre-Conquest England had ceased to be, if indeed they ever were, mere royal officials; and the sheriff, the shire-reeve, was only partly the king's representative since he was also the deputy of the earl.[2]

In 1908 the then F. M. Stenton wrote that the apparent unity of Anglo-Saxon England was 'very deceptive',[3] and it does not seem that the more recent concentration upon 'Administrative History' has greatly altered that conclusion. Yet this concentration has undoubtedly obscured the political facts of life in pre-Conquest England, which by themselves seem to point unmistakably to a lack of unity which was to be disastrous. The Danelaw is amongst the foremost of these facts. More than half of England to the north and east had been settled to a greater or lesser extent by the Danes of Alfred's day, and while the high density of Danish settlement in this great area has of late been questioned (though not disproved) there is no doubt of Scandinavian domination within it.[4] In consequence there were deep

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op. cit., Appendix IV, No. 6, pp. 542–43). *Cf.* the insistence of Bishop and Chaplais on the primary function of the sealed writ as a title deed (*op. cit.*, p. xi).

[1] *E.g.* by Cnut in a charter of 1020 (Stubbs, *Select Charters*, Oxford, 1913, p. 91). *Cf.* Wulfstan's reference to the bishop as 'Christ's sheriff' in his *Institutes of Polity* (pp. 144–45, cited by Barlow, *op. cit.*, p. 97).

[2] W. A. Morris, *The Medieval English Sheriff* (Manchester, 1927), pp. 37–39.

[3] *William the Conqueror*, p. 9.

[4] F. M. Stenton, 'The Danes in England', *Proceedings of the British Academy*, xiii (1927); 'The Scandinavian Colonies in England and Normandy', *ante*, 4th Series, xxvii (1945). *Cf.* P. H. Sawyer, 'The Density of the Danish Settlement in England', *University of Birmingham Historical Journal*, vi (1957).

differences, not eradicated by the reconquest of the Scandinavianized provinces by Alfred's successors, between the resultant Danelaw and 'English England', and not least at the fundamental level of law and custom, since Edgar granted legal autonomy to the Danes.[1] Nor is it possible not to see grave political implications in this social cleavage, especially in the context of renewed Scandinavian assaults as from 980, fulfilled by the Danish monarchy established in the persons of Cnut and his two sons between 1016 and 1042, and lasting as a menace up to and beyond 1066. Especially are the implications visible in the north, beyond the Humber. Here, in ancient Northumbria, was the centre of Danish influence. Here outright political independence was retained in the form of the Norse kingdom of York until 954. Here, in an area larger than all Normandy,[2] the shire system of the rest of England faded out,[3] and much of it was regarded as outside the region covered even by the divided customary law of the Old English kingdom.[4] Here there was little royal demesne, the kings of England seldom came, and the northern nobles for their part seldom attended the meetings of the Witan in the south.[5] But if legitimate rulers seldom came, Swein Forkbeard of Denmark came, and sailed up the Humber in 1013 to be at once accepted as king there and throughout the Danelaw, and Harold Hardrada of Norway attempted to follow his example in 1066, as did Swein Estrithson thereafter.[6] In 1066, also, the Northumbrians at first refused to accept Harold Godwinson as king,[7] and in the previous year, the last year of the Old English state, they had rebelled against Tostig, their southern earl, and forced a reluctant king to banish him, his favourite.[8] In the general writing-up of

[1] Stenton, *Proceedings of the British Academy*, xiii, pp. 44–46; *Anglo-Saxon England*, p. 366. [2] *Proceedings of the British Academy*, xiii, p. 13.

[3] Stenton, *Anglo-Saxon England*, pp. 495–96, 498. [4] *Ibid.*, p. 498.

[5] *Ibid.*, p. 543; *Proceedings of the British Academy*, xiii, pp. 43–44.

[6] *Anglo-Saxon England*, pp. 379–80, 580, 597. [7] *Ibid.*, p. 573 and n.1.

[8] *Ibid.*, pp. 570–71. It is possible that among other offences Tostig had sought to alter the law of Northumbria and thus breach the autonomy granted by Edgar to the Danelaw. Florence of Worcester says the Northumbrians outlawed him 'and all who had prompted him to enact the oppressive law' (ed. B. Thorpe, London, 2 vols., 1848, i, 223). The Anglo-Saxon Chronicle (C) speaks of his 'lawless deeds', and says (D, E) that Harold in making peace with the Northumbrians 'renewed. . . . the law of King Cnut' (ed. Whitelock, Douglas and Tucker, London, 1961, p. 138).

Anglo-Saxon England which has taken place in recent years, 'Northumbrian separatism' has sometimes been questioned or denied,[1] but it seems that William the Conqueror was aware of it, and that it underlies the serious rebellions against his authority in Northumbria, his answering devastation of the north, and also the assertion of the supremacy of the see of Canterbury over that of York.[2]

There are other facts also which should not be obscured. No-one reading the account, however inadequate, of the political history of the Old English kingdom in the last century of its existence, can fail to become aware that there was something very rotten in the state of England and that the times were out of joint. It is worth emphasizing, first, how brief had been the tenth-century hegemony of the Wessex monarchy and the Golden Age of Edgar the Peaceable. National unity was finally achieved only in 954, and in 980 the Vikings came again. After Edgar's day there was scarcely a succession to the throne which was not disputed,[3] the series only reaching its climax in the great conflict of 1066. The unhappy reign of Ethelred 'Unraed' began with the dreadful murder of his brother Edward the Martyr at Corfe,[4] and thereafter is remarkable not only for unrelieved defeat, but also for the dark and spreading stain of treachery and *malaise* of which the turncoat careers of Eadric Streona, Wulfnoth and Thorkell the Tall are representative.[5] Total confusion followed the death of the triumphant Swein Forkbeard in 1014, with the exiled Ethelred received back into his kingdom upon terms,[6] his son, Edmund 'Ironside', established as lord of the northern Danelaw against his father's will and ravaging the English shires of Cheshire, Staffordshire and Shropshire,[7] Edmund's subsequent

[1] See especially B. Wilkinson, 'Northumbrian separatism in 1065 and 1066', *Bulletin of the John Rylands Library*, xxiii (1939).

[2] Hugh the Chantor, *The History of the Church of York, 1066–1127*, ed. C. Johnson (London, 1961), p. 3.

[3] Not even that of Edward the Confessor in 1042 if we accept the story that Emma, his mother, supported the claim of Magnus of Norway. See Stenton, *Anglo-Saxon England*, p. 420; *Encomium Emmae Reginae*, ed. A. Campbell (Camden, 3rd Series, lxxii, London, 1949), pp. xxii, xlix and n.4.

[4] Stenton, *Anglo-Saxon England*, p. 368.

[5] *Ibid.*, pp. 376, 377, 378–79, 380, 382–83, 383–84, 387, 391, 392.

[6] *Ibid.*, pp. 380–81.

[7] *Ibid.*, pp. 381–82, 384.

abortive division of the kingdom with Cnut after Ethelred's death,[1] and, after Edmund's death, the marriage of Emma of Normandy, Ethelred's widowed queen, to Cnut, her husband's conqueror and supplanter.[2] A new, Scandinavian aristocracy was established in the land with Cnut, whose strong-arm methods brought political quiescence in his life-time, but faction is very evident again in the disputed succession and brief reigns of his two sons, Harold 'Harefoot' and Harthacnut.[3] Nor did quiet times come in again with the restoration of the ancient line of Wessex kings in the person of Edward the Confessor in 1042. A weak king whatever else, and married to a queen he did not love, Edward allowed himself and his kingdom to be dominated first by earl Godwin and then by earl Harold, Godwin's son, and stands as the very antithesis of duke William in Normandy across the Channel, in complete control of his new aristocracy by sheer force of personality and excelling achievement. As for the politics of King Edward's day, we are ill-informed just when we need to know most in order to understand the antecedents of the Norman Conquest, and in default of better evidence one is tempted to cite the despairing remark of the Chronicle *s.a.* 1058, 'It is tedious to relate fully how things went.'[4] Yet the dominant factor within the kingdom is the great earls, and the dominant theme is the mounting ascendancy of the house of Godwin, which brought the realm to the brink of civil war in 1051 and seized the throne itself in 1066, together with the rivalries and the tensions thus engendered and intermingled with the growing problem of the succession. It is difficult not to think that had such conditions and events prevailed and taken place in Normandy or in some other feudal state in France, those historians—and there are always some—with anti-feudal tendencies would have dubbed them 'feudal anarchy' to mark their disapproval. The truth is surely that Old English, Anglo-Scandinavian society before 1066 lacked the centralizing discipline which feudalism can provide, and the moral is that if ever there were overmighty subjects in

[1] *Ibid.*, p. 387 and n.2.

[2] For Emma's career see especially A. Campbell's Introduction to the *Encomium Emmae Reginae*, *ut supra*.

[3] For what little is known of Harold Harefoot and Harthacnut, see A. Campbell, *op. cit.*, and Stenton, *op. cit.*, pp. 413–17.

[4] Ed. Whitelock, Douglas and Tucker, p. 134.

medieval England it was before the Norman Conquest and not after it.

Within the context of the general fashion to stress continuity at and over 1066, it is not surprising that in recent years the arguments for pre-Conquest English feudalism have been revived. The best short answer to them is that recently delivered by Professor Darlington: 'the arguments are the old ones which we had thought dead, and resurrection does not make them more convincing'.[1] It is not possible to attempt a much longer answer within the confines of the present paper, but at least some points can be made, and should be. 'Feudalism', as a word unknown to contemporaries and invented by historians to describe a state of affairs already past, is vague and sometimes ambiguous in its employment. Those writing of periods and places wherein there are no doubts can perhaps afford to use the word almost as a synonym for 'medieval', but, concerned with England in the earlier eleventh century when the presence or absence of feudalism is disputed, we must be more precise and pare down the word to its basic essentials. Feudalism then concerns the upper classes of society only, and the condition of the peasantry becomes irrelevant to the issue. Feudalism is a social organization of lords and vassals, bound together by ties of fealty, homage and tenure, vassals being lesser lords, and the ruler the lord of lords, the suzerain. The tenurial essence of feudalism becomes the fief, held by the vassal of his lord in return for military service to him, and the military essence of feudalism becomes knight service, service as a specialist, heavily armed cavalryman. The arguments therefore about the state of pre-Conquest society in England are quite properly conducted in terms of tenure and military organization. In practice, also, the evidence upon which the case for English

[1] R. R. Darlington, *The Norman Conquest* (Creighton Lecture, London, 1963). For the established view, *i.e.* that feudalism is a Norman importation into England, see especially F. M. Stenton, *The First Century of English Feudalism* (Oxford, 1932), ch. 4, and J. H. Round, 'The Introduction of Knight Service into England', reprinted in his *Feudal England* (London, 1909). For pre-Conquest feudalism, see especially Eric John, *Land Tenure in Early England* (Leicester, 1960), ch. 8, and Marjory Hollings, 'The Survival of the Five Hide Unit in the Western Midlands', *English Historical Review*, lxiii (1948). The former draws upon the latter, and both upon F. W. Maitland, *Domesday Book and Beyond* (Cambridge, 1897).

feudalism before the Norman Conquest rests is drawn almost exclusively from one area and one particular lordship, namely the Western Midlands and the lordship of the bishopric of Worcester. Two preliminary points at once emerge. Since the Western Midlands have always been amongst the most conservative regions of the kingdom,[1] they are amongst the last places where we should expect to find social development in advance of the rest of the country, and in fact the evidence seems to point in the more likely reverse direction in showing the bishops of Worcester, after the Conquest, happily making the new fees out of the old five-hide units. Secondly, even if it could be proved that Oswaldslow was feudal before the Conquest, it would seem rash in the extreme to generalize from this particular to the rest of England. But the case for feudalism within pre-Conquest Oswaldslow has not in fact been proved, nor is it likely to be. Hazy as are the details of Old English military organization, it is at least clear that its main component of service in the fyrd was a national obligation lying upon all the land of England, no matter who held it nor of whomsoever held—an ancient and pre-feudal system characteristic of an ancient and pre-feudal monarchy such as survived in England up to the Norman Conquest. The triple hundred of Oswaldslow was a great franchise assessed for services, including military service, at three hundred hides. Within it the bishop was the delegate of the king, in military matters as in others, responsible for the exaction and organization of military service amongst other things, and thus could well be called the *archiductor* of the military force due from the liberty.[2] Within Oswaldslow (as also without) bishop Oswald (as also his predecessors and successors)[3] granted out land by lease-hold tenure. But though there are obvious analogies between the lease and the fief as being devices to enable you to eat your cake and

[1] *Cf.* J. O. Prestwich, 'Anglo-Norman Feudalism and the Problem of Continuity', *Past and Present*, No. 26 (1963), p. 44.

[2] W. de G. Birch, *Cartularium Saxonicum* (3 vols., London, 1885–93), No. 1136; *Hemingi Chartularium Ecclesiae Wigornensis*, ed. T. Hearne (2 vols., Oxford, 1723), i, 292; *cf.* Hollings, *op. cit.*, p. 470.

[3] Oswald's leases are only part of a series extending from the ninth to the eleventh centuries; see N. R. Ker, 'Heming's Cartulary: a description of the two Worcester cartularies in Cotton Tiberius A. xiii', in *Studies in Medieval History presented to F. M. Powicke* (Oxford, 1948), p. 69.

keep it, to alienate land without losing ownership, the laen-lands of the bishopric of Worcester were not fiefs for they lacked the prerequisite of fiefs, which is the owing of military service for them, direct and personal, to the lord. The military service owed by the laen-lands of the bishop was that which lay on all the bishopric, lease-hold or not, royal service in the fyrd, which, being a common obligation, is seldom even specifically mentioned in the leases themselves.[1] Nor elsewhere in England do we find the fief, either held by thegn or housecarl, royal or private, with its essential characteristics of military knight service owed by its tenant to his lord specifically in return for it. It seems that in all modern writing on the origins of English feudalism the aphorism of J. E. A. Jolliffe comes nearest to the truth—'because the English had not the fee, they also had not feudalism.'[2] And, to return to Oswaldslow, it seems that the Domesday commissioners of 1086, as opposed to some modern historians, understood clearly that the laen-lands of the bishopric were not fees—'nor may he [the tenant] retain the land by usurping hereditary right, nor claim it as his fee except according to the will of the bishop and according to the agreement he made with the bishop'.[3] If we then add that in any case the military service owed by the bishop's tenants—or, rather, by their tenements—was infantry service if the fyrd went by land and naval service in the bishop's ship if it

[1] Thus in the lease for three lives granted by bishop Ealdred (1044–62) to Wulfgeat (*Anglo-Saxon Charters*, ed. A. J. Robertson, Cambridge, 1939, No. cxi; cited by John, *op. cit.*, p. 147, and by Hollings, *op. cit.*, p. 467), it is 'at the king's summons' that 'the holder shall discharge the obligations on these 1½ hides at the rate of one [hide]'—such obligations presumably including fyrd service, though this is not specifically mentioned (*cf. ibid.*, No. cxii, where the obligations are the *trimoda necessitas* plus church dues). Similarly the military service by land and sea (*expeditio terra marique*) which the Danish thegn, Simond, was to perform for the church of Worcester in return for the land which his lord, earl Leofric, compelled prior Æthelwine (*c.* 1040–*c.* 1055) to grant him for life, was clearly fyrd service (*Hemingi Chartularium*, i, 264–65). The Domesday commissioners of 1086 stated that the bishop had within Oswaldslow both royal service and his own—*et regis servitium et suum* (*ibid.*, i, 287). For the miscellaneous, non-military services owed by his tenants to the bishop personally as landlord, see Stenton, *First Century*, pp. 122 ff.

[2] *The Constitutional History of Medieval England* (London, 1937), p. 78.

[3] *Hemingi Chartularium*, i, 287; translated and cited by John, *op. cit.*, p. 143.

went by sea,[1] it is difficult to conceive of anything much less feudal than these marines and rowing-blues of Worcester.

For there is, or should be, more to the argument for and against pre-Conquest English feudalism than the technicalities of tenure. The type of military service is no less fundamental, and knights are of the essence of feudalism. The point is an important one, and Jolliffe's aphorism about the fee could equally well be stated as another proposition—'because the English had not the knight, they also had not feudalism'. In the beginning the Teutonic races, including the Angles, Saxons and Jutes in England, and the Franks in Gaul, fought on foot, and it is agreed that on the continent of Western Europe the fundamental factor in the origin and development of feudal society was the adoption of heavy cavalry by the Franks from the mid-eighth century onwards, and the consequent demand for mounted retainers, expensively equipped and elaborately trained to fight on horseback.[2] Hence the appearance and the increasing specialization of knights as heavy cavalrymen, their growing dominance in warfare and society, and hence the fiefs granted to these retainers by their lords for their maintenance and support. It is not surprising therefore that of late, when the arguments for pre-Conquest English feudalism have been revived, the attempt has been made to prove that the English also used cavalry in the earlier eleventh century, and that the Anglo-Saxon thegns, or the Anglo-Scandinavian housecarles, fought on horseback and were indistinguishable from knights.[3] But evidence for Anglo-Saxon or Anglo-Scandinavian cavalry is either null or void. That the

[1] For Oswaldslow as a 'shipful', see John, *op. cit.*, pp. 119 ff.; for the ship fyrd, see C. Warren Hollister, *Anglo-Saxon Military Institutions* (Oxford, 1962), pp. 104–05.

[2] F. Lot, *L'art militaire et les armées au moyen âge en Europe et dans le proche Orient* (2 vols., Paris, 1946), ii, 82 ff.; P. Guilhiermoz, *Essai sur l'origine de la noblesse en France au moyen âge* (Paris, 1902), pp. 450 ff.; Lynn White, Jr, *Medieval Technology and Social Change* (Oxford, 1962) ch. I; D. J. A. Ross, 'L'originalité de "Turoldus": le maniement de lance', *Cahiers de Civilisation Médiévale*, vi (1963).

[3] Richard Glover's entertaining argument that the pre-Conquest English army could use cavalry when it wished, and that it was at least as good as, or, rather, no worse than, the Norman army, will not stand up to detailed examination ('English Warfare in 1066', *English Historical Review*, lxvii, 1952). A recent, though somewhat indecisive, discussion of the whole

former, or at least the thegns amongst them, used horses on the march, and in this were copied by the Danes in the ninth century, was shown by Clapham many years ago,[1] and there is no doubt that this, and only this, is the interpretation of literary references in the eleventh century, and much earlier, to horsed armies (*equestres exercitus*). There is abundant evidence to show that Harold's forces dismounted to fight at Hastings, where no English cavalry took part, nor is this instance to be explained away by special pleading,[2] nor does it stand alone. At the battle of Maldon in 991, ealdorman Brihtnoth did as evidently Harold did at Hastings in 1066[3]—'Then he bade each warrior leave his horse, drive it afar and go forth on foot, and trust to his hands and to his good intent.' Brihtnoth himself rode up and down the ranks to counsel and array his men, and then 'he alighted among the people where it pleased him best, where he knew his bodyguard to be most loyal'. Both sides, English and Dane, then fought it out on foot, the East Saxons forming a shield wall as their successors did at Hastings. The English had no cause to change their time-honoured infantry habits in the Danish wars because their adversaries also fought on foot. The *Encomium Emmae Reginae*, for example, describes Swein's army landing in England in 1013 and preparing to fight on foot, makes it clear that Cnut's army for his invasion in 1015 was an infantry force, and specifically calls Ashingdon in 1016 a severe infantry battle.[4] The only positive evidence for the accustomed use of English cavalry before the Conquest comes from the description of Stamford Bridge (1066) in the unacceptable saga source of Snorre Sturlason,[5] which was written in the thirteenth century, commits the stark anachronism of referring also to barded horses,[6] and leaves the alarming impression that its author is giving a garbled version of Hastings

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question of pre-Conquest English cavalry will be found in Hollister, *Anglo-Saxon Military Institutions*, pp. 134 ff. Both writers see the housecarles as the most likely candidates.

[1] J. H. Clapham, 'The Horsing of the Danes', *English Historical Review*, xxv (1910). [2] Glover, *op. cit.*

[3] 'The Song of Maldon', printed in translation in *English Historical Documents*, i, ed. D. Whitelock (London, 1955), p. 293.

[4] Ed. A. Campbell, pp. 13, 21, 27.

[5] *Snorre Sturlason, The Heimskringla or the Saga of the Norse Kings*, ed. R. B. Anderson, iv (London, 1889), pp. 41 ff. [6] *Ibid.*, p. 44.

with the English in the role of the Normans and Harold Hardrada of Norway playing the part of Harold of England.[1] At Hastings itself on the Bayeux Tapestry none of the English wears spurs in action, many, including the best-armed thegns and housecarles, bear the round shield of infantrymen, and many, including Harold himself, wield the infantry weapon of the axe, long since and necessarily abandoned by the habitually mounted Frankish and Norman knights.[2] William of Malmesbury, writing about 1125, states that duke William took Harold with him on the Breton expedition of 1064 to show off Norman armament and 'that he might perceive how far preferable was the Norman sword to the English battle-axe'.[3] And if, as seems most likely, the well-known scene on the Bayeux Tapestry, wherein duke William confers arms on Harold after the same Breton expedition, represents the ceremony of knighting, there is deep significance for the true condition of Old English society in the implication that the great earl, the leading subject in the English realm, was not a knight before.[4] In Normandy at this date, if not all knights were lords they were would-be lords, and all lords, from the duke downwards, were knights. We do not meet in English sources any pre-Conquest cult of knighthood, such as there was in Normandy, because there were no English knights, and in England the very word '*miles*' does not harden into the technical meaning of 'knight' until the early twelfth century, a hundred years later than in Normandy and France.[5] There is a ring of

[1] A point noticed by both Freeman (*Norman Conquest*, iii, 720), and Oman (*Art of War in the Middle Ages*, London, 1924, i, pp., 150–51).

[2] *The Bayeux Tapestry*, ed. F. M. Stenton and others (2nd edn, London, 1965). For round shields borne by English soldiers who are evidently among the élite, see Plates 64–65 and 71, *cf.* 70, 72. For battle-axes wielded by the English, see Plates 62–63, 64, 65, 66, 67, 70, 71–72 .Glover's implication that the Normans also used the battle-axe (*op. cit.*, p. 4) is unwarranted; the only 'Norman' axe on the Tapestry is borne ceremoniously by count Guy of Ponthieu, who is in any case scarcely a Norman (Plate 12).

[3] *Gesta Regum*, ed. W. Stubbs, ii (Rolls Series, 1889), p. 293.

[4] *The Bayeux Tapestry*, Plate 27. In Normandy at this date the conferment of arms upon a young man (*tiro*) seems to have constituted the ceremony of knighting.

[5] See C. Warren Hollister, *The Military Organization of Norman England* (Oxford, 1965), pp. 115–16; K. J. Hollyman, *Le Développement du Vocabulaire féodal en France pendant le haut moyen âge* (Paris, 1957), pp. 129–34; Lynn White, *Medieval Technology and Social Change*, p. 30 and n. 5.

truth in Florence of Worcester's account, supported by the Anglo-Saxon Chronicle, of an English reverse at the hands of the Welsh in 1055 because the Norman earl Ralph of Hereford, King Edward's nephew, had ordered his native forces 'to fight on horses contrary to their custom'.[1] It has been argued that this incident has no general significance because it relates to local conditions in the Welsh Marches, unsuitable for cavalry.[2] But in fact Florence tells us that the engagement took place near Leominster, which looks now like excellent cavalry country, and in any case the Normans after 1066 were to ride triumphantly through the Marches. It seems that in their failure to develop and use a cavalry arm the English in 1066 were already showing their alleged habit of fighting the last war well into the next.

It would be well also if those who argue for pre-Conquest English feudalism would bear in mind the castle more often than they do, for it is of further significance for the true nature of Old English society that there were no native castles in pre-Conquest England as there were no native knights. The more one thinks about castles the more feudal they become, for castles, whatever reservations of sovereignty may have been made by strong rulers like the dukes of Normandy and the Norman kings of England, were the private and residential fortresses of lords, the symbols and the substance of feudal lordship.[3] Over fifty years ago Mrs Armitage[4] showed that the castle was a Norman importation into England. The only castles known to have existed in England before 1066 are Hereford, Richard's Castle and Ewyas Harold, all in Herefordshire, and probably Clavering in Essex, and each was raised by a Norman or French lord already here in King Edward's day.[5] By

[1] *Anglos contra morem in equis pugnare jussit* (ed. Thorpe, i, p. 213). *Cf.* the Anglo-Saxon Chronicle, C, *s.a.* 1055, 'before any spear had been thrown the English army fled because they were on horses'. [2] Glover, *op. cit.*, pp. 7–8.

[3] For homage rendered in eighteenth-century France 'à cause de la motte', and for the motte of the early castle as 'le symbole de la seigneurie', see P. Siguret in *Château-Gaillard, Etudes de Castellologie européenne*, I (Caen, 1964), p. 135, n. 4. *Cf.* R. Ritter, *Châteaux, Donjons et Places Fortes* (Paris, 1953), p. 25.

[4] E. S. Armitage, *The Early Norman Castles of the British Isles* (London, 1912).

[5] The case of Dover, which probably received its castle within the pre-existing Iron Age earthworks at duke William's hands in 1066, is too detailed to be discussed here, and will be dealt with in a forthcoming paper.

contrast, Old English fortification, like the rest of Old English military organization, was national not feudal, a national system of defence organized from the top downwards, consisting of royal boroughs which were communal and not private and residential fortresses—a system begun and carried through by Alfred and his successors against the Danes, and probably neglected as a system by 1066. Ordericus Vitalis gives the lack of castles in England as one reason for the success of the Norman Conquest,[1] and without doubt the Conquest in the event was achieved and made permanent by a castle-building programme the like of which can seldom if ever have been seen. Since warfare in feudal Europe in the eleventh century was increasingly dominated by knights and castles, it would seem that the military capacity of pre-Conquest England has been as over-estimated in recent years as have other aspects of Old English achievement.

I have left myself little time to deal with the remaining aspects of Old English society on the eve of the Conquest, yet amongst them it seems to me that the subjects of the Church and culture especially have, at least until recently, been dealt with in the same context of a mounting praise of Anglo-Saxon institutions and achievements to the point of exaggeration. No-one now is disposed to dismiss the Old English Church as completely without merit, as was once the case, and this represents progress towards historical truth and justice. But the most recent and comprehensive historian of English ecclesiastical affairs between 1000 and 1066 has seen the period as 'the slack water between two tides of reform'[2]—the first tide being the tenth century and the second, be it noted, the Norman Conquest. One fundamental lesson of religious history is that no movement retains its original impetus for long, and it cannot be denied that the tide of the tenth-century reformation was running out by Edward the Confessor's day.[3] There was, inevitably, an overall decline in the standards of monasticism,[4] and the absence of any high-level intellectual achievement within the monasteries has to be noted.[5] The great period of monastic foundations and refoundations was over, and

[1] *Historia Ecclesiastica*, ed. Le Prevost (5 vols., Paris, 1838–55), ii, 184.
[2] F. Barlow, *The English Church, 1000–1066*, p. 27.
[3] *Ibid.*, p. 39.
[4] *Ibid.*, p. 52; D. Knowles, *The Monastic Order in England* (2nd edn, Cambridge, 1963), pp. 58, 73, 78.
[5] Below, p. 129.

so also was the period of direct stimulus from the Continent.[1] In the Church as a whole, in complete contrast with the Norman duchy, there was a lack of leadership or direction from the lay ruler, and a lack of interest among the earls and magnates.[2] The standard of the episcopate as a whole has recently been judged to be one of 'general mediocrity',[3] and against the individual excellence, albeit old-fashioned, of Wulfstan of Worcester, must still be set the outright scandal of Stigand of Canterbury, which was sufficiently important at the time to be among the causes of the Conquest and its success.[4] The organization of the English Church down to 1066 remained little influenced and still less altered by the latest ideas of Continental reform, which were already being put into practice in Normandy. There were no separate and distinct national councils, ecclesiastical affairs at that level were being dealt with in the Witan, and no provincial synods save at York, where they had more the nature of diocesan assemblies, which elsewhere were held only in the bishopric of Worcester.[5] There is very little evidence of any ecclesiastical jurisdiction in the sense of separate ecclesiastical courts,[6] and canon law, the essential instrument both of ecclesiastical jurisdiction and the Gregorian Reform Movement, seems to have been little developed in this country.[7] There is little evidence also for any organization of cathedral chapters upon the Norman model except at London, where it is doubtless owed to the pre-Conquest Norman bishops Robert of Jumièges and William,[8] and this together with the rarity of archdeacons (found only at Worcester and at York)[9] is symptomatic of a general neglect of ecclesiastical and diocesan organization, which left a dangerous and old-fashioned gap between the bishops and the parish priests.[10] The key to the assessment of the English Church on the eve of the Conquest, and to any necessary comparison between it and the contemporary Church in Normandy, seems to be that, whereas in Normandy a great ecclesiastical revival was taking place at this very point in time, in England an ecclesiastical revival, however

[1] Knowles, *op. cit.*, p. 69.
[2] Barlow, *op. cit.*, pp. 55 ff., 95.
[3] *Ibid.*, p. 94.
[4] For Wulfstan and Stigand, see Barlow, *op. cit.*, pp. 77–81, 90–93.
[5] *Ibid.*, pp. 137 ff., 237, 245–46.
[6] *Ibid.*, pp. 255 ff.
[7] *Ibid.*, pp. 285–86.
[8] *Ibid.*, pp. 219–20, 239–42.
[9] *Ibid.*, pp. 247–49.
[10] *Ibid.*, p. 245.

important, had taken place in the past, *i.e.* in the tenth century. In consequence the Old English Church looked to the past for inspiration, and was in most respects as old-fashioned as the kingdom of which it formed an integral part. It may be that the wind of change blowing from the Continent and from Rome would in the fullness of time have brought the new reforming spirit and organization to this country, but in the event, and as a matter of historical fact, reform came as the direct result of the Norman Conquest.

In many fields of Old English learning and culture, 'backward-looking', 'old-fashioned', 'unprogressive', seem again the appropriate words to use. Intellectual activity, like the Church, drew its inspiration from the past, and English scholars, including Aelfric, Wulfstan and Byrhtferth, were, by the standards of their contemporaries in France, amateur and second-rate, content to popularize and repeat existing knowledge, either in vernacular literature of admitted distinction, or in bad Latin.[1] It is probable that the effect of the tenth-century monastic reform can be exaggerated in the stimulation of a general intellectual revival,[2] and certain that the intellectual influence of the monasteries was slight in the reign of Edward the Confessor.[3] There was no Bec in mid-eleventh-century England, and no secular cathedral schools like those in northern France which were the centres of the new learning and the seed-beds of the renaissance of this age.[4] In artistic achievement it is generally agreed that the Anglo-Saxons excelled in the minor arts, notably in manuscript illumination and book production, needle-work, metal-work and ivories, though the assumed superiority of their sculpture has recently been called in question.[5] In the major art of architecture it has to be admitted that Anglo-Saxon achievement fell far short of the new standards then being set in Normandy and by other Romanesque schools of France, and belonged indeed to a different and an older world. Obsolete in style, inferior in concept, scale and execution,

[1] *Cf.* R. W. Southern, *Saint Anselm and his Biographer* (Cambridge, 1963), pp. 244–45; Knowles, *op. cit.*, p. 94.

[2] Southern, *op. cit.*, p. 244. [3] Knowles, *op. cit.*, p. 94.

[4] R. W. Southern, 'The Place of England in the Twelfth-Century Renaissance', *History*, xlv (1960), pp. 202–03.

[5] By Professor Zarnecki, in a forthcoming paper in the *Proceedings of the British Academy*.

late Anglo-Saxon architecture, so far as we can judge it, was Carolingian rather than Romanesque, expressing itself in the outworn conventions of debased Roman forms, its affinities with the Rhineland and the past rather than with France and the future. Certainly the Normans after 1066 had no doubt that they could do better and proceeded to do so on a lavish scale. It is most difficult to regret their undertaking.

In the last few paragraphs I have deliberately used the word 'old-fashioned' for England on the eve of the Norman Conquest, because it seems to me that here, right up until 1066, the Old World of Carolingian, Christian Monarchy, and pre-feudal Germanic and Scandinavian society, survived, more or less in working order—and that this was fundamentally the result of the great paradox of early English history, that in this country, as opposed to Gaul, the onslaughts of the Vikings in the ninth century brought, not disintegration, but the preservation and expansion of the Wessex monarchy and its institutions. Yet the result was that by 1066 the Old English kingdom was old-fashioned by the standards of the Brave New World in northern France—and of that Brave New World the Norman duchy was a vital part. Each of us is free personally to decide which of those worlds is preferable, but it can scarcely be denied that they were different, nor, as it seems to me, that the Norman Conquest, for better or for worse, brought England into the main-stream of contemporary Continental development, and, therefore, up to date. One may perhaps conclude by risking an analogy. One may be, I suppose, at this present time, either for or against the Common Market, but the one thing, surely, that cannot be done is to pretend that to join it would make no difference.

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PRESIDENTIAL ADDRESS

By Professor R. A. Humphreys, O.B.E., M.A., Ph.D., D. Litt.

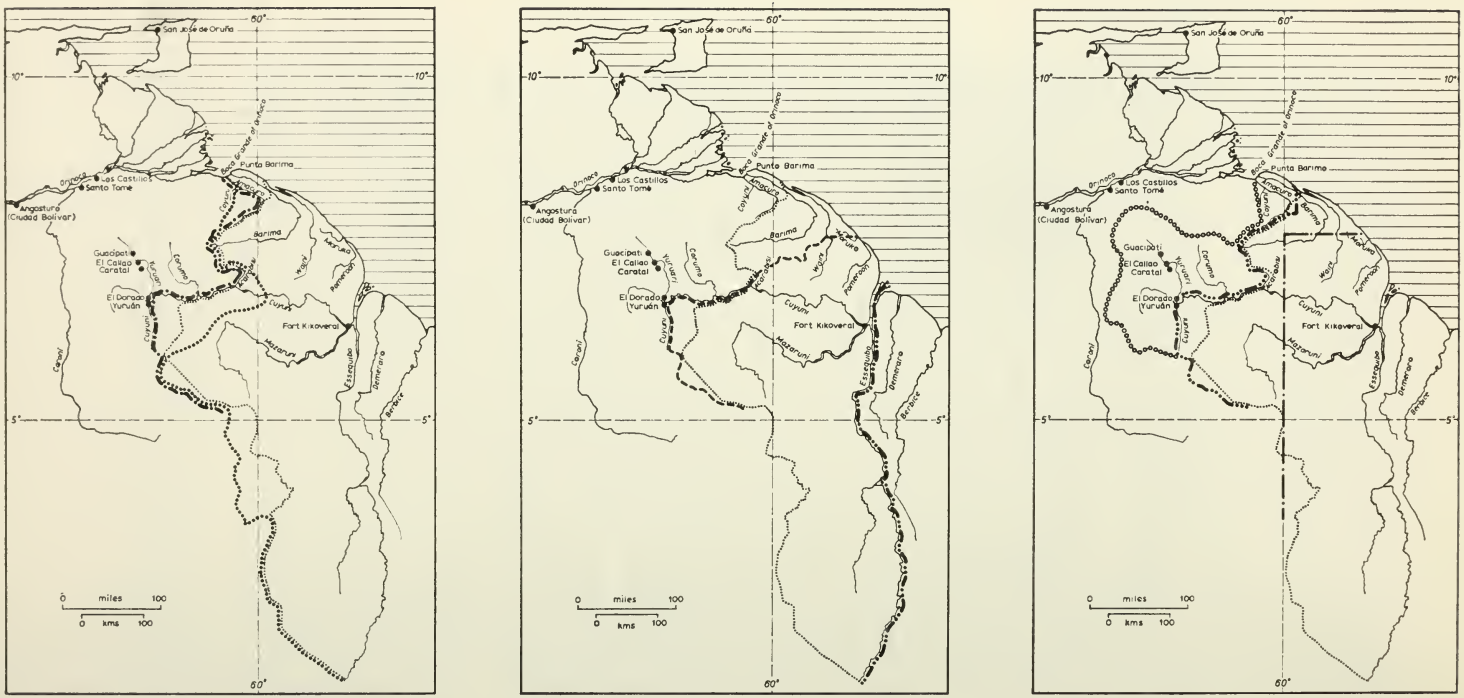
READ 10 DECEMBER 1966

ANGLO-AMERICAN RIVALRIES AND THE VENEZUELA CRISIS OF 1895

HISTORIANS should be grateful to President Cleveland. It was his insistence on the arbitration of the dispute between Britain and Venezuela over the boundary of British Guiana that led to an intensive search in Spanish, Dutch, British and other archives for the evidence of European activities between the Amazon and the Orinoco during the three centuries after the discovery of America. The documents so found and printed are essential for any understanding of the historical background of the Anglo-Venezuelan dispute and of great interest to the colonial historian in general.[1] But gratitude is tempered with dismay when, to the immense range of sources, printed and unprinted, for the study of the Anglo-Venezuelan dispute proper, there is added the formidable volume of materials in American and British archives, both public and private, relating to the Anglo-American crisis to which, in 1895, the Anglo-Venezuelan dispute gave rise. Fortunately, even the more recently available collections of papers have already been put to excellent use;[2] and in attempting to review this controversy, its historical background and origins, and the crisis to which it led,

[1] See more particularly *British Guiana Boundary. Arbitration with the United States of Venezuela. Appendix to the Case on behalf of the Government of Her Britannic Majesty* (7 vols., London, 1898), *Appendix to the Counter-Case* (London, 1898), hereinafter cited as *B.G.B.*; *Report and Accompanying Papers of the Commission appointed by the President of the United States 'to investigate and report upon the true divisional line between the Republic of Venezuela and British Guiana'* (9 vols., Washington, 1896–97), vol. ii; Joseph Strickland, S.J., *Documents and Maps on the Boundary Question between Venezuela and British Guayana from the Capuchin Archives in Rome* (Rome, 1896).

[2] A. E. Campbell, *Great Britain and the United States, 1895–1903* (London, 1960); E. R. May, *Imperial Democracy. The Emergence of America as a Great Power* (New York, 1961); J. A. S. Grenville, *Lord Salisbury and*



Boundaries between British Guiana and Venezuela. Interpreted on the base of the American Geographical Society's 'Map of Hispanic America', scale 1:1 million, drafted by D. J. Robinson and drawn by G. Riddle of the Department of Geography, University College, London.

as a whole, I wish, first, to acknowledge my obligation to those British and American scholars who have done so much to elucidate the diplomacy of the eighteen-nineties, and, secondly, to express my hope that the interest of the subject may suffice to excuse the hardihood of the enterprise. The Venezuela crisis of 1895 was one of the most momentous episodes in the history of Anglo-American relations in general and of Anglo-American rivalries in Latin America in particular. It was, also, as the late Professor W. L. Burn once remarked, one of those major shocks which compel the theory of international relations to adjust itself to new facts. Both in Britain and the United States it belongs to another and a vanished age. But the controversy itself has not even yet been buried in Venezuela.

The Spaniards, who, already before the sixteenth century closed, had roamed the New World from the Grand Canyon of the Colorado to the south of South America, were the first to sail along the shores of the Guianas. They sailed also up, and down, the Orinoco, and in search of the land of the Cinnamon and of the golden city of Manoa they explored the vast inland world between the highlands of Guiana and the great coastal ranges of the Andes. But the Guianas themselves remained almost wholly neglected and unexplored.[1] San José de Oruña in Trinidad and Santo Tomé de Guayana on the Orinoco were the outposts of

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Foreign Policy. The Close of the Nineteenth Century (London, 1964); J. A. S. Grenville and G. B. Young, *Politics, Strategy, and American Diplomacy. Studies in Foreign Policy, 1873–1917* (New Haven and London, 1966).

[1] The fable of a Spanish ascent of the Essequibo in 1553 was long ago exploded. See G. L. Burr, 'The Guiana Boundary. A postscript to the work of the American Commission', *American Historical Review*, vi (Oct. 1900), p. 51, note 1. But it is still repeated. A Spanish expedition did land between the Essequibo and the Oyapok in 1576. The sole survivor of those who did not abandon the landing party turned up many years later in Margarita with the story that he had visited Manoa and that it had taken him from dawn to dusk to cross the city from its gates to the palace of the Inca. V. T. Harlow, ed., *The Discoverie of the Large and Bewtiful Empire of Guiana by Sir Walter Ralegh* (London, 1928), pp. lxvii, lxxviii. See also, for a Venezuelan view of Spanish enterprise in the sixteenth century in the area which was to become British, French and Dutch Guiana, Pablo Ojer, S.J., *La Formación del Oriente Venezolano. I. Creación de las Gobernaciones* (Caracas, 1966), more particularly pp. 181, 202–3, 209, 291–3, 571, 576.

Spain at the end of the century,[1] and while it was left to the English to produce the first printed accounts of what soon came to be called 'the wild coast' between the Amazon and the Orinoco,[2] it was left to the Dutch to make the first permanent settlements upon it.

The earliest of these settlements was on the Essequibo river. It owed its survival, if not its origin, to the Dutch West India Company, which obtained its charter in 1621, less than a year after the Pilgrim Fathers, who had themselves thought of voyaging to Guiana, landed at Plymouth Rock.[3] Other settlements followed, to the east of the Essequibo, on the Berbice, and, later, to the west of it, on the Pomeroon and on the Moruka. These last were dispersed by an English invasion in 1665. The Essequibo settlement, however, quickly recovered. By the beginning of the eighteenth century it was the centre of a far-flung trading network, north, south and west.[4] The Spanish outpost of Santo Tomé, by contrast, which had more than once been sacked and whose site had more than once been moved, was still no more than a poverty-stricken village. It contained in 1720, so the Governor of Cumaná asserted, only 'twenty or twenty-five houses, occupied by the same number of residents, deprived of all human assistance, and with no means whatever to clear the dense forests which surrounded the place'.[5]

[1] *Cf.* Antonio Berrío to the King, Margarita, 1 Jan. 1593, printed in Harlow, *op. cit.*, pp. 102–3: 'From the mouth of the River Amazon to that of the Orinoco the map indicates more than four hundred leagues in all this latitude and more than one thousand five hundred in longitude, in which there is not a single Spanish habitation.' Berrío, who enjoyed the title of 'Gobernador del Dorado', founded both San José de Oruña and Santo Tomé, where he died in 1597.

[2] By Raleigh, Keymis and Masham, 1596 and 1598.

[3] For the early history of Dutch settlement, both before and after the foundation of the West India Company, see Burr, *op cit.*, George Edmundson, 'The Dutch in Western Guiana', *English Historical Review*, xvi (Oct. 1901), pp. 640–75, and Storm van's Gravesande, *The Rise of British Guiana*, compiled from his despatches by C. A. Harris and J. A. J. de Villiers (2 vols., Hakluyt Society, 1911), i, 10–21, 146–53.

[4] *Cf.* for its references to trade on the Upper Essequibo, the Upper Mazaruni, the Upper Cuyuni and the Orinoco, the interesting Official Diary kept at Fort Kijkoveral, July 1699 to June 1701, *B.G.B.*, *Appendix to Counter-Case*, pp. 47–158.

[5] Report on the Transfer of the City of Guayana to the Angostura of the Orinoco by Don José Diguja, Governor of Cumaná, 15 Dec. 1763, *B.G.B.*,

There is ample evidence of Spanish jealousy of the continued prosperity, indeed of the continued existence, of the Dutch in Guiana in the eighteenth century, and of Spanish ambitions to destroy or contain them.[1] But Spanish ambitions squared ill with Spanish resources, more particularly with 'the destitute, miserable, and backward state' of Spanish Guayana, to use the words of its governor in 1788.[2] Santo Tomé was indeed rehabilitated and, moved up-river, entered on a new lease of life at the famous Orinoco 'narrows' under the name of Angostura. Dutch fishermen down-stream, and Dutch traders and their Indian allies in the coastal region to the south and east of the river and on the waters of the Cuyuni, were subjected from time to time to Spanish harassment.[3] But save in the area between the Cuyuni and the Caroni, where the Catalonian Capuchins established their mission villages, settlement or colonisation by the Spaniards there was none.[4] The Dutch, for their part, opened the Demerara region to settlement and encouraged the immigration of English planters from Barbados and other islands. They cemented alliances with the Indian tribes of the interior, presenting their chiefs with staves of office ornamented with large silver knobs and the seal of the West India Company. They maintained trading posts on the Upper Essequibo, on the Cuyuni, and, in the coastal zone, on the Moruka, and their sphere of influence extended to the Boca Grande of the Orinoco on the one hand, and, up the Cuyuni, to the neighbourhood of the

Appendix, iii, 10. For the history of Santo Tomé, see V. T. Harlow, ed., *Ralegh's Last Voyage* (London, 1932), pp. 357–67, and Ojer, *op. cit.*, pp. 512, 568, 572.

[1] *Cf.* the secret instructions given to José de Iturriaga, 8 Oct. 1753, to try to dislodge foreigners on the coast of Guayana and to incite negro rebellions against the Dutch to the end that Portugal and Spain might divide the territory between them. *B.G.B.*, *Appendix*. ii, 86–8.

[2] Report of Miguel Marmión, Guayana, 10 July 1788, *ibid.*, v, 59.

[3] *Cf.* Resolution of States-General, 31 July 1759, *ibid.*, ii, 176; Court of Policy, Essequibo, to West India Company, May 1769, *ibid.*, iv, 12. The Spaniards, on the other hand, complained of attacks by the Carib Indians, said to be in alliance with the Dutch, on the Capuchin missions.

[4] Despite contemporary rumours and later assertions to the contrary, the mission settlements never reached the Cuyuni itself. But there is some evidence that a Spanish fort was at least begun at the confluence of the Cuyuni and the Corumo in the 1790's. The project was approved by the Crown in 1791. *Ibid.*, v, 63, 130–32.

Franciscan missions on the other.[1] But no boundaries between the Dutch and Spanish possessions were ever defined and none was established when early in the nineteenth century the Dutch colonies of Berbice, Demerara, and Essequibo finally passed into British hands.

For the next half-century, Spanish, or Venezuelan, Guayana, as it became with the revolt of Spain's American colonies, stagnated. Angostura, renamed Ciudad Bolívar in commemoration of its association with the great liberator of northern South America,[2] was an exception. As the chief riverine port it was a city of modest prosperity, the link between the vast interior plains of the Orinoco and the outside world. But, apart from its capital city, Venezuelan Guayana fell ever deeper into decay. The mission villages had been ruined, their pastors massacred almost to a man during the revolutionary wars. 'There are no missions', reported a Venezuelan inspector in 1847, only their 'eloquent and pitiful remains'. 'In the thirty years', he added, 'which have passed since the freedom of Guayana . . . that province has disappeared'.[3] Nor did it revive till gold was re-discovered in the old mission area late in the eighteen-forties and in the eighteen-fifties.

Demerara, Essequibo and Berbice, meanwhile, had been united in 1831 into the colony of British Guiana. The sources of its great rivers and much of its physical geography were still unknown, and in 1835 a young German naturalist, Robert Schomburgk, undertook a mission of exploration under the auspices of the Royal Geographical Society. Schomburgk spent nearly four years in British Guiana, mostly in its more southerly regions, and on the completion of his work wrote a letter to the governor pointing out the 'paramount necessity' of determining the frontiers of the colony by survey. With the letter he sent a sketch

[1] For a list of postholders see *ibid.*, vii, 152 ff.; for a brief account of the Cuyuni posts, Burr, *op. cit.*, pp. 61–2; for Dutch claims to the Cuyuni, the Moruka, the Pomeroon and the Waini, the Remonstrance of the States-General to the Court of Spain, 2 Aug. 1769, *B.G.B.*, *Appendix*, iv, 29 ff.; and for the contention that the Barima was the dividing line between Dutch and Spanish territory, *ibid.*, ii, 197 (1760), 200, 201 (1761) ; iii, 131 (1766), 141 (1767). See also Storm van's Gravesande, *op. cit.*, i, 239, 369; ii, 374, 376, 388, 430, 431, 460 ff., 503, 516, 528, 601.

[2] It was Bolívar's temporary capital from 1817 to 1820 and it was to the Congress of Angostura in 1819 that he delivered his most celebrated oration.

[3] Report of Andrés Level, 5 July 1847, *B.G.B.*, *Appendix*, vi, 152, 153, 162.

map on which was drawn a line of boundary representing what he supposed to be the western boundary claimed by the Dutch, and the map and extracts from the accompanying correspondence were published as a Parliamentary Paper in 1840.[1]

Schomburgk returned to British Guiana in 1841, commissioned now to survey its boundaries. The task took him two and a half years, and the result, the famous Schomburgk line, was delineated and defined in a series of maps and reports sent home to the Colonial Office. So far as the frontier with Venezuela was concerned, the line, in Schomburgk's view, did not embrace all the territory which he now believed Britain might legitimately claim.[2] But it had the merit, as he repeatedly insisted, of following natural divisions instead of imaginary lines.[3] And, as Sir Clements Markham later explained to Mr Mallet-Prevost, it was intended to divide territory which had been in Spanish or Venezuelan occupation from that which had not and in which the Dutch had established posts or settlements.[4] Such was the theory. And the Schomburgk line was to form the basis both of British claims and of the later boundary of British Guiana.

[1] *Papers relative to British Guiana*, H.C., 1840, xxxiv, (288). The map was also printed in Schomburgk's *Description of British Guiana, Geographical and Statistical* . . . (London, 1840). The boundary line, which Schomburgk describes in a letter to Governor Light on 16 July 1839, ran from a point on the Orinoco near the mouth of the Amacuro to a point on the Cuyuni and thence in a southwesterly direction towards the Mazaruni. It was the line—an arbitrary line—which Arrowsmith had engraved on his maps of Colombia of 1832 and 1834. See Clements Markham to Mallet-Prevost, draft, May 1896, in Markham to Sanderson, 13 May 1896, P[ublic] R[ecord] O[ffice], F[oreign] O[ffice Records] 80/371. Given this line Schomburgk calculated the area of British Guiana to be 76,000 square miles.

[2] Territory, that is, watered by rivers, such as the Yuruari, which ultimately flowed into the Essequibo. The boundary line would thus approach 'the very heart of Venezuelan Guiana'. But the rivers, he thought, were of less importance to Great Britain than Punta Barima. Schomburgk to Governor Light, 23 Jan. 1843, *B.G.B.*, *Appendix*, vii, 50.

[3] Schomburgk to Light, 23 Oct. 1841; Memorandum by Schomburgk, 30 Nov. 1841; Schomburgk to Stanley, 1 Nov. 1844, *ibid.*, pp. 31–3, 37, 57.

[4] Markham to Mallet-Prevost, May 1896, F.O. 80/371. Like the line of 1840 the Schomburgk line placed in British territory the south bank of the Boca Grande of the Orinoco from the Barima to the Amacuro. But it followed a more circuitous course to the Cuyuni, struck the river at a higher point (at the confluence of the Acarabisi), and then continued along the Cuyuni from east to west and thence to its source.

It might have been expected that Schomburgk's survey would be followed by the negotiation of boundary treaties with neighbouring countries, and such a treaty was indeed proposed by Venezuela so soon as she was informed of Schomburgk's appointment. She proposed it again late in 1841, protesting also against the erection by Schomburgk of two boundary posts at points on the south bank of the estuary of the Orinoco.[1] And in 1844 she put forward the claim that the Essequibo was the dividing line between British and Venezuelan territory.[2] But when, in this same year, Lord Aberdeen formally proposed to the Venezuelan Government a line of boundary so far modifying Schomburgk's line as to leave the mouth of the Orinoco, and much adjoining territory, completely under Venezuelan control,[3] his offer was ignored. Thereafter, for more than thirty years, the frontier question slept. Schomburgk's maps remained in manuscript. The general course of his line was not unknown to the Venezuelan Government.[4] But to the world at large the only boundary stamped with Schomburgk's authority was the line which had been drawn on the highly inaccurate sketch map published in 1840, and this was sometimes assumed by map-makers and others to be Schomburgk's own line. It was reproduced, with slight variations, on later maps, including, such was official incompetence or indifference, a map prepared at the instance of the colonial authorities in 1875 and published in the

[1] At Punta Barima and at the mouth of the Amacuro. Aberdeen agreed to remove them, without prejudice to British claims. Aberdeen to Alejo Fortique, 31 Jan. 1842, *B.G.B.*, *Appendix*, vii, 80.

[2] Fortique to Aberdeen, 31 Jan. 1844, *ibid.*, pp. 86–7.

[3] Aberdeen to Fortique, 30 March 1844, *ibid.*, pp. 88–90. The line ran from the mouth of the Moruka to a point on the Acarabisi, thence conforming to Schomburgk's line. Palmerston, in 1850, stated that since Aberdeen's proposal had not been accepted, it would not be renewed. Palmerston to B. H. Wilson, 30 Aug. 1850. *P*[*arliamentary*] *P*[*apers*],, Venezuela, No. 1, H.C., 1896 [c. 7972], xcvii, 260.

[4] It had known, for example, of Schomburgk's activities in 1841 south of the Orinoco. Aberdeen's line in 1844 coincided with Schomburgk's line from the Acarabisi onwards, and Lord Granville in 1881 provided the Venezuelan Government with a map which showed the Schomburgk line with certain variations in the coastal area resulting from his own modification of Schomburgk's boundary, all to the advantage of Venezuela. *B.G.B.*, *Appendix*, vii, 99–100.

following year.[1] And it is perhaps not surprising that when in 1886 the true Schomburgk line was at last made public Britain should have been accused, in President Cleveland's words, of extending 'in some mysterious way' the frontier which Schomburgk had drawn.[2]

It is not necessary to examine in detail the barren diplomatic interchanges between Britain and Venezuela about the frontiers of British Guiana. Both parties declared in 1850 that they would not occupy or encroach upon any part of the territory in dispute between them.[3] But where that territory began or ended none stayed to say. Nor did argument again begin till 1876. Meanwhile, in the eighteen-sixties and eighteen-seventies, what had been the old mission area of Spanish Guayana underwent an economic transformation. Where once the Franciscan fathers had established their mission villages, there now appeared, in the Yuruari basin, the rough mining settlements of the Caratal goldfield, their huts and houses thatched with the leaves of the *carata* palm. El Callao mine, whose first shaft was sunk in 1871, was for a time one of the richest gold mines in the world; from the goldfields as a whole more than one million ounces were extracted between 1860 and 1883; and before the boom years ended in 1886 so great had been the influx of immigrants from the British Isles and from the British West Indies, as well as from British Guiana, that the mining field, in one visitor's opinion, had 'more the appearance of an English Colony than a part of the Spanish-speaking Republic of Venezuela'.[4]

[1] Clements Markham to Mallet-Prevost, May 1896, F.O. 80/371. This is Stanford's map of British Guiana, which had a note on it stating that the 'boundaries indicated in this map are those laid down by the late Sir Robert Schomburgk who was engaged in exploring the Colony during the years 1835 to 1839 . . .' The boundary was afterwards altered and the note erased. See below, p. 141 note 3.

[2] Grover Cleveland, *Presidential Problems* (New York, 1904), p. 221.

[3] *B.G.B.*, *Appendix*, vi, 185–88. For Anglo-Venezuelan relations in the eighteen-forties, and the use which was made in Venezuelan domestic politics of the bogy of British imperialism, see George E. Carl, 'Orígines del Conflicto de Límites entre Venezuela y La Guayana Británica, 1840–1850', *Boletín Histórico* (Caracas, Fundación John Boulton, 1966), iv (Núm. 12), pp. 253–73.

[4] Report by Vice-Consul Reddan on the Gold Mines etc. of Venezuela, July 1884, *P.P.*, H.C., 1884 [c. 4172], lxxxiii, 102, 145. I should like here to express my indebtedness to Mr David Robinson, who kindly allowed me

'English colony' or not, there was never any serious challenge to Venezuelan title to the mining district. Lord Salisbury indeed declared in 1880 that Britain could rightfully claim the whole of the basin of the Cuyuni (of which the Yuruari and the mining field formed a part), and this had been Schomburgk's opinion too.[1] But, like Schomburgk, Salisbury had no intention of pressing such a claim. It was a paper claim, maintained, indeed, to the very end, but put forward, apparently, to counter the revival of the equally, or still more, extravagant pretension of Venezuela, reiterated on three occasions between 1876 and 1879, that her frontier lay along the Essequibo.[2] And Lord Salisbury made it clear that, given the great difference between these claims, each side would have to make very considerable concessions to the other.

But all attempts to find an agreed frontier failed.[3] In the eighteen-eighties, as in the eighteen-forties, Britain was ready to concede to Venezuela complete command of the mouth of the Orinoco and to forego also her claims to territory west of the Schomburgk line. She was even prepared to agree to the arbitration of her title to

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to read his unpublished doctoral dissertation on 'Geographical Change in Venezuelan Guayana, 1600–1880', and who has also drawn the map to illustrate this paper. J. H. Reddan was Vice-Consul at Ciudad Bolívar.

[1] Salisbury to Rojas, 10 Jan. 1880, *B.G.B.*, *Appendix*, vii, 96–7. For Schomburgk's opinion see above, p. 137 note 2.

[2] Calcaño to Derby, 14 Nov. 1876; Rojas to Derby, 13 Feb. 1877; Rojas to Salisbury, 19 May 1879, *ibid.*, pp. 90–6.

[3] The Venezuelan minister, J. M. Rojas, revived in 1880 Aberdeen's suggestion that the frontier should begin at the mouth of the Moruka and then proposed a line running from a mile to the north of the Moruka to the 60th meridian and thence due south. Rojas to Granville, 23 Sept. 1880, 21 Feb. 1881, *ibid.*, pp. 97–8. For this he was severely rebuked by his own Government, though most accounts of the controversy ignore this fact. E. B. Nuñez, *Tres Momentos en la Controversia de Límites de Guayana* (2nd edn, Caracas, 1962), p. 32. Lord Granville made a counter-proposal, which lacked, in the later opinion of President Cleveland, 'almost every feature of concession', but which, surrendering the Boca Grande of the Orinoco to Venezuela, was very similar to the line determined upon by the Tribunal of Arbitration in 1899. Granville to Rojas, 15 Sept. 1881, *B.G.B.*, *Appendix*, vii, 99; Cleveland, *Presidential Problems*, p. 206. And Lord Rosebery, in 1886, proposed a more generous line than Lord Granville's, while stipulating that the Orinoco should be entirely free to commerce and nagivation. Rosebery to Guzman Blanco, 20 July 1886, *B.G.B.*, *Appendix*, vii, 116–17.

some of the territory to the east of it.[1] Venezuela, on the other hand, having shown, as it seemed, a momentary disposition in 1880 to recede from her extravagant demands, reverted to them instead, insisted that her frontier was indeed the Essequibo, and formally granted to citizens of the United States colonization concessions which appeared to cover almost the whole of the territory between the Essequibo and the Boca Grande of the Orinoco.[2] The concessionaires had to be warned and steps taken to protect British interests. Finally, in October 1886, Britain proclaimed the Schomburgk line to be the provisional frontier of British Guiana,[3] and Venezuela, in February 1887, severed diplomatic relations with Britain.[4] Proposals for their renewal, and for the simultaneous settlement of the boundary dispute, were put forward in 1890 and again in 1893, but put forward in vain;[5] and, in the meantime, both sides took further steps to safeguard their rights and claims. By 1892 rival police or military stations faced each other high up on the Cuyuni, at the mouth of the Yuruán River, the highway from the Cuyuni to the Caratal mining fields, and faced each other also on opposite banks of the Amacuro in the estuary of the Orinoco.

[1] That is, between Granville's line and Rojas's line. Rosebery to Guzman Blanco, 20 July 1886, *cit.* p. 140 note 3.

[2] See the concessions to C. C. Fitzgerald, 22 Sept. 1883, and to Herbert Gordan, 21 May 1884, *ibid.*, vi, 219–22, 237. The Fitzgerald concession was made over to the Manoa Company of New York, one of whose agents, Robert Wells, was arrested and tried by the Special Magistrate for the Pomeroon district in 1884 for maltreating an Indian (hanging him up by his heels) on territory claimed by Britain. On the ill-fortunes of this company see C. G. Jackson 'The Manoa Company', *Inter-American Economic Affairs*, xiii, no. 4 (1960), pp. 12–45.

[3] Stanford's map of British Guiana of 1875 (see above, p. 139 note 1) was now revised and reissued and Schomburgk's earlier estimate of the area of the colony (see above, p. 137 note 1) was also revised to take into account all the territory properly embraced within the Schomburgk line.

[4] By way of an ultimatum she demanded the evacuation by Britain of all territory between the Orinoco and the Pomeroon.

[5] In the course of the discussions in 1890 Britain offered not to press her extreme claims west of the Schomburgk line, to recognize outright Venezuelan title to the 'valuable districts in the neighbourhood of Guacipati' (the northerly part of the mining field), and to submit all other claims west of the line to arbitration. See the memoranda of Sir Thomas Sanderson in *B.G.B.*, *Appendix*, vii, 137, 140. But privately and unofficially it was again suggested that she would be prepared to surrender her claims to the south bank of the

In the summer of 1894, then, the boundary dispute between Britain and Venezuela was already more than half a century old and diplomatic relations between the two countries had been severed for more than seven years. At this point Venezuela appealed to public opinion in the United States. She had already sought the diplomatic support of her sister Latin American republics.[1] Year in, year out, moreover, though her own relations with the United States were none too friendly, she had laid her complaints before the State Department.[2] She had invoked the 'doctrine of the immortal Monroe'; she had asserted that what was in question was the control of the Orinoco, though plainly it was not; and she had declared that Britain's 'insatiate thirst for conquest' knew no bounds. But the United States had refused to excite herself in the matter. She had tendered her good offices to Britain. In a note which the American Minister in London never delivered[3] (though the fact was to escape both President Cleveland and his Secretary of State, Richard Olney), she had expressed her 'grave disquietude' at British territorial claims. And she had suggested that Britain might refer the dispute to arbitration. But despite evident signs of uneasiness, she did

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Boca Grande of the Orinoco in return for compensation elsewhere. Foreign Office to Colonial Office, 31 July 1890, F.O. 80/339. See also Michelena to Rosebery, 29 Sept. 1893, F.O. 80/355; *Libro Amarillo, 1894* (Caracas), p. 98; *P.P.*, Venezuela, No. 1, H.C., 1896 [c. 7972], xcvii, 440; Memorandum on the Boundary Question, by José Andrade, 31 March 1894, *Papers relating to the Foreign Relations of the United States, 1894* (Washington, 1895), p. 834. In 1895 the Venezuelans complained that Rosebery ignored this suggestion in the 1893 discussions. Pulido to Andrade, 17 April 1895, *Foreign Relations, 1895*, ii, 1482–3. The Governor of British Guiana had in fact objected to it on the ground that the Barima River, which flowed into the Boca Grande, was the highway to and from the Northwest district of the colony and that this outlet might be closed if the Orinoco were entirely under Venezuelan control. Colonial Office to Foreign Office, 28 Jan. 1891, F.O. 80/343, 30 Dec. 1891, F.O. 80/344.

[1] *Libro Amarillo, 1894*, pp. 43–5.

[2] The first of these appeals was made in 1876, the second in 1880. Thereafter they were frequent. See, more particularly, C. C. Tansill, *The Foreign Policy of Thomas F. Bayard, 1885–1897* (New York, 1940), pp. 625–63, and Dexter Perkins, *The Monroe Doctrine, 1867–1907* (Baltimore, 1937), pp. 51–60.

[3] Bayard to Phelps, 17 Feb. 1888, Henry James, *Richard Olney and his Public Services* (Boston and New York, 1923), pp. 221–2.

little more,[1] until, by a turn of fortune and a handsome fee, Venezuela secured the services, as her special agent in the United States, of William Lindsay Scruggs.

Scruggs was a former United States Minister both to Colombia and to Venezuela. Though, as Minister to Colombia, he had acted as arbitrator in a dispute between Colombia and Great Britain, as Minister to Venezuela he had shown no great concern over the dispute between Britain and Venezuela. Nor did he have a high opinion of Venezuelan politicians. 'There has not been an honest and clean administration of government in Venezuela for thirty years', he wrote in 1892. Holding this opinion, a few months later he was dismissed by the President of the the United States for bribing the President of Venezuela.[2] The State Department does not always keep its secrets. But this secret was not disclosed till Professor Grenville and Professor Young uncovered it seventy-four years later. Scruggs returned to his home town of Atlanta, ostensibly having resigned. But he was not long unemployed. By the autumn of 1894 he was in the pay of Venezuela and engaged in writing a pamphlet which he published in October, its title: *British Aggressions in Venezuela, or the Monroe Doctrine on Trial.*

What purported to be the historical facts in Scruggs's pamphlet were supplied by the Venezuelan Minister in Washington, José Andrade. But historical facts mattered little either to Andrade or to Scruggs. Their object was to show that a weak but progressive Latin American republic was threatened with dismemberment by the ruthless aggressions of a stronger power, Britain; that the principles of 'autonomous government' on the American continent and of American public law were alike imperilled; that Britain threatened to plant herself on the Orinoco; that the consequences of her success would be alarming both to the United States and to South America; and that the United States had a 'moral duty to interfere'.

As a skilful propagandist Scruggs ensured that his pamphlet should be widely and judiciously distributed, to State Governors, to Congressmen and journalists, to public libraries and to

[1] James G. Blaine, who resigned as Secretary of State in June 1892, had shown strong symptoms of impatience in 1891. Tansill, *op. cit.*, p. 648.

[2] Grenville and Young, *Politics, Strategy, and American Diplomacy*, pp. 127–8, 132–3.

clubs.[1] As a skilful propagandist also, he took care to obtain the attention of Congress as well as of the press. It was Scruggs who wrote the resolution which he persuaded Leonidas Livingston, of Atlanta, to present to the House of Representatives in January 1895 recommending that the Anglo-Venezuelan dispute should be referred to friendly arbitration. It was Scruggs who wrote the speech with which Livingston supported this resolution in February. And it was Scruggs who 'induced' Senator Henry Cabot Lodge to 'study' the dispute—his own words—with the result that Lodge wrote, in June, a masterly philippic in the *North American Review*, reproducing some of Scruggs's historical errors and adding others of his own. Finally, Scruggs twice interviewed President Cleveland, once in January, when the President asked him for one or more additional copies of his pamphlet, and again in May, when, after a discussion lasting for two hours, Cleveland promised to look into the question personally.[2]

Not everyone, of course, was disposed to swallow Scruggs—and Andrade—whole. The Secretary of State, Walter Q. Gresham, his predecessor, Thomas F. Bayard, now the Ambassador in London, the State Department itself, certainly did not do so.[3] But in the spring of 1895 there was an increasing readiness to accept Venezuelan propaganda at its face value. Neither the Foreign Office nor the Colonial Office had ever bothered itself much about public opinion in the United States, or, indeed, about any opinion in the United States, so far as the Anglo-Venezuelan dispute was concerned. Lord Rosebery, in 1892, had protested against the publication of a highly tendentious article in the *Bulletin* of the Commercial Bureau of the American Republics, at that time almost a branch of the State Department.[4] But no

[1] See his *The Colombian and Venezuelan Republics, with notes on other parts of Central and South America* (London, 1900), p. 296.

[2] Grenville and Young, *op. cit.*, pp. 142–5, 225–6, 152–3. The second interview took place on May 1. It was followed by the well-known meeting (wrongly ascribed to April) between Cleveland and his friend, D. M. Dickinson. *Ibid.*, pp. 150–2. Thereafter, Dickinson, in a speech at Detroit, which Cleveland subsequently endorsed, launched a violent tirade against British policy.

[3] *Ibid.*, pp. 145–6; Tansill, *op. cit.*, pp. 664, n., 695, 697–8.

[4] 34th *Bulletin*, 1892; Rosebery to Herbert, 27 Aug. 1892, *P.P.*, United States, No. 1, H.C., 1896 [c. 7926], xcvii, 4. It is possible that the author was the Bureau's Director, W. E. Curtis, who later wrote *Venezuela. A Land Where it's always Summer* (London, 1896).

one had troubled to explain exactly what were the bases of British claims, to clear up the confusions and misunderstandings about the Schomburgk line, or to keep the United States informed about the behind-the-scenes negotiations with Venezuela. When, early in 1895, the Foreign Office was told of the willingness of the United States to lend its good offices to a settlement of the Anglo-Venezuelan dispute by arbitration, Lord Kimberley, at that time Foreign Secretary, did point out that though Britain held firm to the Schomburgk line, she was prepared to make large abatements from her claims to the west of it. But it never occurred to him to explain also that she had repeatedly, and even as late as 1890, offered to surrender her claims to Punta Barima at the mouth of the Orinoco, and that a major reason why she was no longer willing to do this was because she was anxious to maintain the free navigation of that part of the river into which the Barima itself flowed and feared (with some justification) that Venezuela might seek to close it.[1]

For British casualness, British indifference to opinion in the United States, British reticence, there was now a penalty to be paid. Twisting the lion's tail was an old game, not confined to the American Irish. But there was more to the rising tide of criticism and hostility in the United States than a predisposition to believe the worst of Britain. The propaganda which Scruggs so successfully employed appealed precisely to that blend of idealism and self-interest which had inspired the original Monroe Doctrine

[1] See above, p. 141 note 5. Kimberley to Pauncefote, 23 Feb. 1895, F.O. 80/361; *P.P.*, United States, No. 1, H.C., 1896, pp. 5–6, and *cf.* Bayard to Gresham, 5 April 1895, Tansill, *op. cit.*, 696, note 160; Cleveland, *Presidential Problems*, pp. 251–5, where Kimberley's remarks are transformed into an 'ultimatum', and Allan Nevins, *Grover Cleveland, A study in courage* (New York, 1933), pp. 631–2: 'The news that Kimberley was asserting an informal claim [to the Orinoco] was profoundly alarming'. But there was nothing new in British claims. Nor, in the view of the Colonial Office, was 'the control of the mouth of the Orinoco' really in question. 'Point Barima', argued C. A. Harris, 'can hardly be said to command the main mouth of the river; and Great Britain, if actuated by motives of aggression, could at any time with equal ease command the passage by her ships of war'. Memorandum in reply to the note of the United States Secretary of State on the Venezuelan Boundary, 2 Sept. 1895, F.O. 80/363. For Venezuelan threats to the free navigation of the Orinoco see Walter LaFaber, *The New Empire. An Interpretation of American Expansion, 1860–1898* (Ithaca, 1963), p. 252.

in the eighteen-twenties and was to give it renewed vitality in the eighteen-nineties.

It is true, of course, that most Americans, like most Englishmen, knew very little about the Monroe Doctrine and cared still less about Venezuela. But that the political system of the New World was different from the political system of the Old, that America ought to be wholly American, and that European influence in the western hemisphere was dangerous to the peace and security of the United States, these were axioms as self-evident in the eighteen-nineties as they had been to Adams, Monroe and many others, in the eighteen-twenties. Then, indeed, the balance of economic and naval power had been heavily weighted in favour of British influence in Latin America. It was still so weighted in the eighteen-nineties. Never had the flow of British capital to Latin America been so great as in the decade of the 'eighties, and never had European economic penetration, led by Britain, been so extensive. But American capital now also looked abroad. American industry had developed to the point at which it needed foreign markets. Long before the economic collapse of 1893 had enhanced its attractiveness, James G. Blaine had preached the doctrine that 'while the great powers of Europe are steadily enlarging their colonial domination in Asia and Africa it is the especial province of this country to improve and expand its trade with the nations of America'.[1] Officials in Latin America, such as John E. Bacon, had deplored the decline of the American merchant marine. Publicists, such as H. R. Helper, had advocated the construction of a Pan-American railway. Congress itself, in 1884, sent a commercial mission to Latin America, of which W. E. Curtis, later the Director of the Commercial Bureau of the American Republics, was at first the secretary. Five years later Blaine had the satisfaction of presiding over the first International Conference of American States, whose purposes, certainly, were as much commercial as political. And when, in 1895, the National Association of Manufacturers was formed, it was to Latin America that the Association looked and in Venezuela, indeed, that it established its first sample warehouse.[2] 'We are a great nation',

[1] LaFaber, *op cit.*, p. 105.

[2] *Ibid.*, pp. 191–4. See also his article, 'The Background of Cleveland's Venezuelan Policy: A reinterpretation', *American Historical Review*, xlvi

declared Senator Lodge in December 1895, 'and we have a great nation's duties and responsibilities. The path which we should follow lies clear before us. We must be the leaders in the Western Hemisphere. We must protect our coasts and hold the commerce of that hemisphere'.[1]

If this was the task, as Lodge saw it, then in Latin America the United States came face to face with Europe and with Britain in particular. It was not that British claims in the western hemisphere were 'multiplying', as one argument runs,[2] erroneously, I think, though British economic interests, in banking and railways, in public utilities and in the export industries certainly were. But Americans feared that these claims were multiplying. 'We have no intention', said Lord Salisbury in 1891, 'of constituting ourselves a Providence in any South American quarrel. We have been pressed, earnestly pressed, to undertake the part of arbitrator, of compulsory arbitrator in quarrels on the west coast of South America, in the Chilian quarrels [Salisbury was referring to the civil war of 1891], and to throw down our warder in order that the tournament may cease. We have been earnestly pressed, also, on the east of the continent to undertake the regeneration of Argentine finance. On neither of these subjects are Her Majesty's Government in the least degree disposed to encroach on the functions of Providence'. Britain's task, Salisbury continued, was 'to look after British interests, to assert them and to defend them if they are unjustly attacked', not to interfere in the troubles or quarrels of other nations.[3]

This was merely to reaffirm traditional policy, the policy laid down by Castlereagh and Canning. But it was not the view of British policy which Blaine had taken in 1882 when he described the War of the Pacific as 'an English war on Peru, with Chile as

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(July 1961), pp. 947–67, and A. P. Whitaker, *The Western Hemisphere Idea: its rise and decline* (Ithaca, 1954), pp. 74–85.

[1] Henry Cabot Lodge, *Speeches and Addresses, 1884–1909* (Boston and New York, 1909), pp. 238–9. *Cf.* his speech of 2 March 1895: 'We are a great people; we control this continent; we are dominant in this hemisphere'. *Ibid.*, pp. 185–6.

[2] LaFaber, *The New Empire*, pp. 243, 246, and 'Background of Cleveland's Venezuelan Policy', p. 958.

[3] *The Times*, 30 July 1891. I owe this reference to H. S. Ferns, *Britain and Argentina in the Nineteenth Century* (Oxford, 1960), p. 465.

the instrument'.[1] It was not Gresham's view when, in 1894, during the great Brazilian naval revolt, he took measures to put a stop to the attempted blockade of Rio de Janeiro, in the belief that a rebel victory would be contrary to American economic interests and half-suspecting that Britain was encouraging the revolt in order to obtain, among other things, the restoration of the Brazilian monarchy.[2] Yet, however much British and American sympathies may have been enlisted on opposite sides in these disputes, so far as the British Government is concerned not the slightest evidence has yet been produced from the British archives to justify Blaine's conviction or Gresham's suspicions.[3]

There were occasions, however, when British interests did seem to need to be asserted or defended, and in 1895 such an occasion occurred in Central America. This was an area in which the United States, because of her interest in an American-controlled isthmian canal, was peculiarly sensitive to the dangers of European influence. It was an area also in which Britain possessed a colony—British Honduras—and had at one time exercised a protectorate. The protectorate, over the Mosquito Indians of the region known as the Mosquito Shore, had become a reserve within the republic of Nicaragua, its self-governing status being more clearly defined as the result of an arbitral award by the Emperor of Austria in 1881.

It was perhaps natural that in disputes with the Nicaraguan Government the inhabitants of the reserve—some of whom were British, and, at a later stage, many others American—should have tended to look to Britain, and equally natural that the

[1] See the interesting discussion by V. G. Kiernan, 'Foreign Interests in the War of the Pacific', *Hispanic American Historical Review*, xxv (1955), 14–36, which disposes of Blaine's contention so far as the British Government is concerned.

[2] LaFaber, *The New Empire*, pp. 210–17, and 'United States Depression Diplomacy and the Brazilian Revolution, 1893–1894', *Hispanic American Historical Review*, xl (1960), 107–18. Professor LaFaber appears to share Gresham's suspicions.

[3] A Foreign Office Minute of 1 Jan. 1894 in F.O. 13/733, on a complaint about the harm done to British shipping by the rebel naval operations, observes: 'H.M. Govt. much regret this lamentable state of affairs, [but] have no right or intention to interfere in the quarrel', and adds that 'it would not be proper for H.M. Govt. to attempt to influence or decide' the course of the revolution.

United States should have begun to fear that Britain was seeking to restore the protectorate. Lord Salisbury, in 1889, denied any such intention, and Salisbury's denial was repeated in 1894 by Lord Kimberley after Nicaraguan intervention in the reserve had led to protests and disorders, the dispatch of an American warship (it struck a reef and was lost on the way), and the landing of British marines at Bluefields. The marines were soon withdrawn; when further disorders took place, it was American, not British, sailors who were landed; and, by the end of the year, the reserve had been formally incorporated into Nicaragua, allegedly at the wish of the Mosquitos themselves and to the rather sanctimonious relief of the Foreign Office. But the whole affair had roused great uneasiness in the United States. During the disturbances, moreover, two Americans and a number of British subjects, including a vice-consul, had been seized by the Nicaraguans, roughly handled and removed from the reserve. The Americans were quickly released, but not the British. Britain thereupon demanded redress and an indemnity of £15,000, and when this also was delayed British marines, in April 1895, occupied the port of Corinto.

This was battleship diplomacy; it was not unknown to the United States; and Gresham, the Secretary of State, though he thought that the British demands were harsh, thought also that they must be met. But public opinion was violently outraged. The Cleveland Administration was vigorously attacked for its supineness in the face of British brutality and aggression; and Scruggs, in his campaign on behalf of Venezuela, found a powerful if unexpected ally in the Royal Navy.[1]

At this point Gresham was taken ill and died. He was succeeded on June 8 by the Attorney-General, Richard Olney, a hard-headed corporation lawyer, to whom Scruggs at once sent a copy of his pamphlet. Gresham, though he had been impelled to write

[1] The Nicaraguan affair is dealt with by M. W. Williams, *Anglo-American Isthmian Diplomacy, 1815–1915* (Washington, 1916), pp. 288–99; R. L. Morrow, 'A Conflict between the Commercial Interests of the United States and its Foreign Policy', *Hispanic American Historical Review*, x (1930), pp. 2–13; Tansill, *op. cit.*, pp. 668–90; and LaFaber, *The New Empire*, pp. 218–228. See also, for American opinion, N. M. Blake, 'Background of Cleveland's Venezuelan Policy', *American Historical Review*, xlvii (Jan. 1942), pp. 263–66.

to Bayard in March in words which, Professor May has suggested, may have been the President's rather than his own, that Britain's attitude was unjust and that the time was coming when the United States would have 'to call a halt', had been well aware of Venezuelan efforts to mould opinion and the press. He had firmly stated his opinion also that Venezuela should resume diplomatic relations with Britain.[1] And there seems no reason to suppose that the instruction which he was preparing to send to the American Ambassador in London would at all have resembled the dispatch which Olney did send on July 20 with the warm approval of Cleveland but without, apparently, any real discussion within the State Department and not much with the cabinet.[2]

Olney's note reviewed the history both of the Anglo-Venezuelan dispute and of the Monroe Doctrine, arriving at the conclusion that the dispute was 'in any view far within the scope and spirit' of the doctrine. It asserted that any permanent political union between a European and an American state was 'unnatural and inexpedient', and in illustration of this dictum drew a picture of the dangers to which South America and the United States would be exposed by the transfer of European political systems to the western hemisphere. In contrast to Canning's famous statement, seventy years earlier, that 'Spanish America is free; and if we do not mismanage our affairs sadly, she is English', it declared that 'today the United States is practically sovereign on this continent, and its fiat is law upon the subjects to which it confines its interposition'. Finally, it demanded that Britain should agree to submit the Venezuelan boundary question in its entirety to arbitration and that, if she were unwilling to do this, the President should be informed in time for him to lay the whole subject before Congress in his next annual message.

Olney's despatch represented the triumph of Scruggs and of Venezuela in the sense that by July 1895 both the President and the Secretary of State had been brought to believe that Britain

[1] Tansill, *op cit.*, pp. 695–6; May, *Imperial Democracy*, p. 39; Grenville and Young, *op. cit.*, pp. 145–48.

[2] *Cf.* Matilda Gresham, *Life of Walter Quintin Gresham, 1832–1895* (2 vols., Chicago, 1919), ii, 795. But see LaFaber, *op. cit.*, p. 255. James, *op. cit.*, p. 111, points out that it does not appear that Olney's assistants in the State Department saw the note. It was read over to members of the Cabinet. For the text see *Foreign Relations, 1895*, i, 545–62.

was in the wrong, that the vital interests of the United States were involved, and that the United States must intervene. In this they were in accord with the public mind and were doubtless not indifferent to the pleasures of popular support. But here Scrugg's triumph and Venezuela's ended. Not a word was said to Venezuela about the note, though its proposals affected her deeply. What seems to have been uppermost in Olney's mind, indeed, was not the interests of Venezuela but the interests of the United States, the vindication of the Monroe Doctrine,[1] and, I would add, of the paramount position of the United States in the western hemisphere. From this point of view he was neither anti-English nor pro-Venezuelan. He was simply pro-American. He never recognized, or at any rate never admitted, the flagrant inaccuracies of his celebrated note. Neither did Cleveland, who, much pleased with the note at the time, saw no flaws in it six years later when writing his own account of the dispute.[2] But Olney did admit that his language was sometimes 'of the bumptious order' and gave the excuse that 'in English eyes the United States was then so completely a negligible quantity that it was believed only words the equivalent of blows would be really effective'.[3]

But words the equivalent of blows had not the slightest effect on Lord Salisbury as Prime Minister and in charge of the Foreign Office or on Mr Joseph Chamberlain at the Colonial Office. Chamberlain, who had now got the idea into his head that there was a gold-bearing region in the colony close to and 'probably over' the Schomburgk line, as he said, which might turn out to be another Transvaal or West Australia,[4] was all for belligerence. The United States, he thought, should be told that the Monroe

[1] See, more particularly, the able argument of G. B. Young, 'Intervention under the Monroe Doctrine: The Olney Corollary', *Political Science Quarterly*, lvii (1942), pp. 247–80; Grenville, *Lord Salisbury and Foreign Policy*, p. 58; and Grenville and Young, *op. cit.*, pp. 166, 175–6.

[2] Cleveland to Olney, 3 March 1901, Allan Nevins, ed., *Letters of Grover Cleveland, 1850–1908* (New York, 1933), pp. 546–7.

[3] Olney to Knox, 29 Jan. 1912, James, *op. cit.*, p. 140.

[4] Chamberlain to Salisbury, 4 Sept. 1895, S[alisbury] P[apers], Correspondence from Chamberlain, 1887–1897. (I am much indebted to the Marquess of Salisbury and to the Librarian of Christ Church, Oxford, for the permission given me to make use of these papers.) See also Grenville, *op. cit.*, p. 63.

Doctrine had nothing whatever to do with the boundary dispute, and, moreover, that Britain was herself an American power with a territorial area greater than that of the United States.[1] He was eager also to teach the Venezuelans a lesson. In January 1895 the British police station at Yuruán, high up the Cuyuni, had been attacked and British subjects had been arrested and ill-treated. True, the station had been quickly re-occupied. But such a state of affairs, in Chamberlain's opinion, was 'almost intolerable', and he wanted, therefore, a strong note to be sent to Venezuela demanding redress and the fullest possible compensation under the threat of force.[2] And though at least one voice was raised in the Foreign Office to protest that the Colonial Office was 'too bloody-minded about the business',[3] on October 14 the note was sent, together with an instruction to the Governor of British Guiana to repel any additional act of Venezuelan aggression beyond the Schomburgk line. If further evidence were wanted of Chamberlain's lack of understanding of Olney's note, of the Monroe Doctrine, and of the temper of American opinion, it is afforded by his extraordinary suggestion, early in December, that Britain should propose to France an exchange of the Caribbean island of Dominica for Dahomey and its hinterland. Equally remarkable, Lord Salisbury actually made the proposal.[4]

Chamberlain's comments on Olney's note were sent to the Foreign Office early in September, together with a memorandum drawn up in the Colonial Office by C. A. Harris which concluded that there was no reply that Britain could return to Olney 'except that she declines to submit to any arbitration the bogus claims of Venezuela to the greater part of a British Colony'.[5] A month later, the Law Officers of the Crown, whose advice had also been sought, gave it as their opinion that Olney's interpretation of the Monroe Doctrine was 'absolutely incompatible with interna-

[1] Colonial Office to Foreign Office, 11 Sept. 1895, F.O. 80/363.

[2] Colonial Office to Foreign Office, 30 Aug. 1895, F.O. 80/362.

[3] Minute of 30 Aug. 1895, F.O. 80/362.

[4] The idea was Lord Selborne's. Chamberlain to Salisbury, 8 Dec. 1895, S.P., Correspondence from Chamberlain; May, *op. cit.*, pp. 45–6. France was also to surrender her fishing rights off Newfoundland.

[5] Memorandum in reply to the note of the United States Secretary of State on the Venezuelan Boundary, 2 Sept. 1895, in Colonial Office to Foreign Office, 11 Sept. 1895, F.O. 80/363. Harris later edited the despatches of Storm van's Gravesande for the Hakluyt Society.

tional law'.[1] Not till the end of November, however, was Salisbury's reply ready, and then, sent by sea in the form of two despatches to Sir Julian Pauncefote, the British Ambassador in Washington, it arrived too late for the President's annual message at the opening of Congress.[2]

'It is surprising', Pauncefote once complained from Washington, 'how few public men in this country can carry on a discussion like a gentleman; they write like rival attorneys or newspaper editors. I cannot rely on Mr Olney any more than on his predecessors'.[3] No one could accuse Lord Salisbury of such behaviour. The tone of his reply was studiously courteous. But it strongly reminded one contemporary American historian of the condescension with which Sir Leicester Dedlock in *Bleak House* submitted to an interview with Mr Rouncewell, the ironmaster.[4] And not only did Lord Salisbury in effect rebuke Olney for his interference, correct his errors and reject his proposals; he directly challenged his interpretation of the Monroe Doctrine. 'Mr Olney's principle', wrote Salisbury, 'that American questions are for American decision, even if it receive any countenance from the language of President Monroe (which it does not), cannot be sustained by any reasoning drawn from the law of nations. The Government of the United States is not entitled to affirm as a universal proposition, with reference to a number of independent States for whose conduct it assumes no responsibility, that its interests are necessarily concerned in whatever may befall those States, simply because they are situated in the Western Hemisphere'.[5]

The explosion that followed was not surprising. In August the Second Assistant Secretary of State in Washington had reported that the 'newspaper men' were 'wild' over the discovery that

[1] Law Officers to Salisbury, 12 Oct. 1895, F.O. 80/363.

[2] As Professor Grenville has shown, there seems no reason to suppose that the delay was deliberate. Salisbury was preoccupied with the Turkish crisis. Moreover, having prepared one despatch only, dealing with the Monroe Doctrine, he was then asked by the cabinet to prepare a second, dealing with the frontier dispute. Grenville, *op. cit.*, p. 62. And the Foreign Office seems to have mistaken the date on which the President would deliver his message.

[3] Pauncefote to Salisbury, 24 July 1896, S.P., America, 1895–1898, A/139.

[4] H. T. Peck, *Twenty Years of the Republic* (New York, 1906), p. 422.

[5] *Foreign Relations, 1895*, i, 563–76.

Britain had recently taken possession of the uninhabited island of Trinidade, some six hundred miles off the coast of Brazil, for use as a cable station.[1] Pauncefote, in October, when the news of Britain's ultimatum to Venezuela over the Yuruán incident had arrived, 'found the Press raging and lying outrageously about Venezuela'.[2] 'The Venezuelan trouble', he wrote again in November, 'has occupied the Press and the Jingoes almost exclusively, and the most fantastic speculations are indulged in by the "irresponsible chatterers" as to what may be the outcome of the matter and as to the tone and character of the British reply to what they term "Olney's ultimatum" ',[3] rumours of which had long been circulating. And though, when the reply did arrive, Pauncefote thought it 'superb',[4] Olney and Cleveland, who had awaited it with increasing impatience, were outraged; and Olney, at any rate, not at all sensitive to the feelings of others, deeply felt what he later described as 'the seeming if not intentional, contumely' with which, as he thought, his own note had been received.[5]

The Presidential Message of 17 December, drafted by Olney, sent to his Boston office, not to the State Department, to be typed, and revised by Cleveland, sitting up till sunrise, was partly the result of hot temper; it was partly the only acceptable alternative to surrender. It resoundingly reaffirmed the Monroe Doctrine and its application to the Anglo-Venezuelan dispute. It asked Congress to appropriate funds for a Commission which should seek to determine the true line of division between Venezuela and British Guiana, and it declared that when the Commission's report had been made and accepted, it would be the duty of the United States 'to resist by every means in its power as a willful aggression upon its rights and interests the appropriation by Great Britain of any lands or the exercise of governmental

[1] LaFaber, *op. cit.*, p. 246. Brazil protested, Britain gave way.

[2] Pauncefote to Salisbury, 25 Oct. 1895, S.P., A/139.

[3] Pauncefote to Salisbury, 8 Nov. 1895, *ibid.* See also, for American excitement, Blake, *op. cit.*, pp. 270–2, and Tansill, *op. cit.*, p. 709, n., and pp. 710–13.

[4] Pauncefote to Barrington, 17 Dec. 1895, S.P., A/139.

[5] Olney to Chamberlain, 28 Sept. 1896, C[hamberlain] P[apers], Birmingham University Library, J.C. 7/5/1A/23. (For permission to make use of these papers I am much indebted to the Librarian.) Olney's letter is printed in A. L. P. Dennis, *Adventures in American Diplomacy, 1896–1906* (New York, 1928), p. 59.

jurisdiction over any territory which after investigation' the United States had 'determined of right' belonged to Venezuela.

On the face of it Cleveland's message was virtually an ultimatum. It sounded the 'note of war'.[1] 'Nothing is heard', wrote Pauncefote to Salisbury, three days later, 'but the voice of the Jingo bellowing out defiance to England'.[2] Only a few observers, ex-Governor Long of Massachusetts, for example, and Pauncefote himself, noted the velvet glove beneath the gauntlet of mail. The proposed Commission, thought Long, provided a way out, 'through which the whole bubble can fizzle and effervesce',[3] and Pauncefote, in similar terms, thought it a 'fine safety valve'.[4] As modern historians have noted, Cleveland nowhere bound himself to accept the Commission's report. No word was said of the principles on which it would act or of the length of time at its disposal. And, once again, Venezuela was not consulted.[5] It was not the qualifications or omissions, however, it was the belligerent phrases of the message that caught the public eye. 'Annihilation stares you in the face', wrote a Kentucky business man to Salisbury on December 18,[6] and Olney had some reason for saying later that the 'American heart' was stirred as it had not been since the Civil War.[7] But the panic of December 20 on the New York Stock Exchange was a moderating influence,[8] and Pauncefote soon discerned a 'strong undercurrent' of opinion flowing, as he wrote, 'in opposition' to the apparently 'warlike attitude of the President'.[9] By the beginning of the New Year the immediate sense of crisis was already beginning to fade. Pauncefote could

[1] Pauncefote to Salisbury, 24 Dec. 1895, F.O. 80/364.

[2] Pauncefote to Salisbury, 20 Dec. 1895, S.P., A/139. See also Campbell, *Great Britain and the United States*, p. 16.

[3] Enclosure in W. L. Broadbent to Salisbury, 19 Dec. 1895, F.O. 80/364.

[4] Pauncefote to Salisbury, 3 Jan. 1896, S.P., A/139.

[5] See S. F. Bemis, *A Diplomatic History of the United States* (London, 1937), p. 419; Young, *op. cit.*, pp. 259–61; Grenville, *op. cit.*, pp. 66–7; Grenville and Young, *op. cit.*, pp. 167–8.

[6] D. C. Crutcher to Salisbury, 18 Dec. 1895, F.O. 80/364.

[7] Olney to Chamberlain, 28 Sept. 1896, C.P.

[8] For divided opinions in the business and financial world see LaFaber, *op. cit.*, pp. 270–6.

[9] Pauncefote to Salisbury, 24 Dec. 1895, F.O. 80/364. For Cleveland's critics see Perkins, *op. cit.*, pp. 194–9; Tansill, *op. cit.*, pp. 726–8; and May, *op. cit.*, pp. 56–8.

note with relief that 'a wave of reason is passing over this country after the extraordinary exhibition of "dementia" which we have witnessed'.[1]

Electrifying the United States, Cleveland's message startled and shocked Great Britain. Lord Salisbury, indeed, remained unmoved. The whole affair, he thought, would 'fizzle out'.[2] And Chamberlain, though gravely concerned, showed no disposition to give way.[3] It was neither a British nor an American interest, he wrote, that European powers should move into America; and, so far, Britain might support the American contention. But an 'unnatural and altogether unprecedented extension' of the Monroe Doctrine she could not accept.[4] His under-secretary, Lord Selborne, on the other hand, expressed a general bewilderment when he confessed that 'the hatred', as it seemed to him, 'of England by Americans is to me quite unaccountable. We expect the French to hate us and are quite prepared to reciprocate the compliment if necessary; but the Americans, No!';[5] and Sir William Harcourt's insistence, as joint-leader of the Opposition, that there must be no war with America, accurately reflected, after the first outburst of indignation, the tenor of British opinion.[6] It is no doubt true that the Kaiser's telegram to President Kruger on January 3 congratulating him on the defeat of Dr Jameson's 'armed bands' in South Africa helped to deflect this current of indignation from the United States to Germany. But it may be questioned whether under almost any circumstances British opinion would have tolerated a war with the United States. And, of course, Olney and Cleveland, for their part, did not want war with England.

[1] Pauncefote to Salisbury, 3 Jan. 1896, S.P., A/139.

[2] Goschen to Salisbury, 19 Dec. 1895, A. D. Elliot, *The Life of George Joachim Goschen, First Viscount Goschen, 1831–1907* (2 vols., London, 1911), ii, 204.

[3] *Cf.* J. L. Garvin [and Julian Amery], *The Life of Joseph Chamberlain* (4 vols., London, 1932–51), iii, 72.

[4] Chamberlain to Selborne, 20 Dec. 1895, C.P., J.C. 7/5/1B/4.

[5] Selborne to Chamberlain, 18 Dec. 1895, C.P., J.C. 7/5/1B/2.

[6] Chamberlain's Diary, 9 Jan. 1896, *ibid.*, J.C. 7/5/1B/14. *Cf.* Garvin, *op. cit.*, iii, 160–1, and A. G. Gardiner, *The Life of Sir William Harcourt* (2 vols., London, 1923), ii, 397. A. J. Balfour, on 15 January, publicly declared that 'a war with the United States' carried with it something of 'the unnatural horror of a civil war'. *Ibid.*, ii, 397–8.

A passage, now familiar, in Chamberlain's diary reveals what happened next. For many years Britain had been willing to agree to the arbitration of all territory to the west of the Schomburgk line, and Chamberlain, indeed, in August 1895, had wanted to insist on it.[1] This was still Lord Salisbury's view. But at his cabinet meeting on January 11 he found that 'the great majority—if not all the cabinet—would be glad of any honourable settlement', and, though he himself was ready to resign rather than 'to yield unconditionally to American threats', he did not reject a proposal that the United States should be asked whether she would consent to an arbitration 'limited to the territory on either side of the Schomburgk line at present unsettled'.[2]

With this decision Britain in effect recognized the right of the United States to intervene in the Anglo-Venezuelan dispute. She abandoned also her insistence on the Schomburgk line. But months of unofficial as well as official discussions followed before an agreement could be reached. President Cleveland's Boundary Commission, and the distinguished investigators whom it employed, such as Justin Winsor, John Franklin Jameson and George Lincoln Burr, were not long in getting to work and were given friendly assistance in England. Burr, at a later date, was even allowed the use of Chamberlain's own room in the Colonial Office while Chamberlain was away in the United States.[3] And while Chamberlain, in London, reversed his earlier instructions and ordered the colonial authorities in British Guiana to avoid any action that might have the appearance of aggression,[4] Olney, in Washington, insisted that Venezuela should make amends to England for the incident which had occurred at Yuruán in January[5] and rebuked her for allowing a further frontier incident to occur in June.[6]

[1] Colonial Office to Foreign Office, 30 Aug. 1895, F.O. 80/362.

[2] Chamberlain's Diary, 11 Jan. 1896, C.P.; Garvin, *op. cit.*, iii, 161–2; May, *op. cit.*, p. 50; Grenville, *op. cit.*, p. 68.

[3] R. H. Bainton, *George Lincoln Burr* (Ithaca, 1943), p. 78.

[4] Colonial Office to Foreign Office, 18 Jan. 1896, F.O. 80/367, 1 May 1896, F.O. 80/371.

[5] Pauncefote to Salisbury, 31 Jan. 1896, S.P., A/139; Denning (Mexico) to Salisbury, 7 Feb. 1896, F.O. 80/368; Pauncefote to Salisbury, 18 Feb. 1896, F.O. 80/368, 20 May 1896, F.O. 80/371.

[6] Olney to Andrade, 25 June 1896, in Pauncefote to Salisbury, 30 June 1896, F.O. 80/372.

Of the Anglo-American negotiations themselves three points deserve to be particularly noted. First, the United States, with British concurrence, acted on Venezuela's behalf, but Venezuela herself was not consulted, or, rather, as Professor Young pointed out some years ago, she was not consulted till the very end of the negotiations, and then only perfunctorily.[1] Venezuela, said Olney on one occasion, 'has got to do exactly what we tell her';[2] he revealed not the slightest wish that she should be represented by one of her own citizens on the Tribunal of Arbitration which he proposed should be set up; and when a final agreement was reached in Washington her President was simply given to understand that it was 'very just and fair' and that he 'had better expedite its completion' or it would be 'bad for his country'. So, at least, Pauncefote reported.[3]

Secondly, Olney wanted arbitration to be complete and unrestricted, to embrace, that is, all the territory that Britain claimed on the one hand and Venezuela on the other, though, from the first, he was ready to concede that due weight should be given to long-continued occupation.[4] Salisbury and Chamberlain, on the other hand, were determined to safeguard what they called 'settled areas'. Britain, wrote Salisbury in January, was 'contending for men—not for land, for the rights of settlers' who had been 'encouraged to invest in such property and to tie up their fortunes in it'; and Chamberlain, on the following day, used almost identical words.[5] In their opinion, therefore, settled dis-

[1] *Libro Amarillo, 1897*, p. xxxi; Young, *op. cit.*, pp. 275–6.

[2] Sir Stafford Northcote to Salisbury, 16 March 1896, on an interview with Olney. S.P., Northcote, H.S. See also Grenville and Young, *op. cit.*, pp. 175–6. Northcote also interviewed Cleveland, who observed that 'there was no active feeling of sympathy in the U.S. with the Venezuelans themselves —that it was a question of U.S. dignity in maintaining the position they had taken up of arbitration in some shape'. Northcote to Salisbury, 22 March 1896, S.P.

[3] Pauncefote to Salisbury, 13 Nov. 1896, S.P., A/139.

[4] *Cf.* Olney to Bayard, 14, 22 Jan., 8 Feb. 1896, James, *op. cit.*, pp. 229, 233–6. For a detailed account of the negotiations see Tansill, *op. cit.*, pp. 740 ff., and T. C. Smith, 'Secretary Olney's Real Credit in the Venezuelan Affair' [May, 1933], Massachusetts Historical Society, *Proceedings*, lxv (1940), pp. 112–47.

[5] Salisbury to Chamberlain, 31 Jan. 1896, C.P., J.C. 5/67/44; Grenville, *op. cit.*, p. 63; Chamberlain to Playfair, 1 Feb. 1896, C.P., J.C. 7/5/1B/27.

tricts must be excluded from the terms of arbitration. 'There would be almost as much ground', said Salisbury in March, 'for giving up the West Indian island of Trinidad'.[1] But the questions remained: what constituted a settled area, and was settlement, at any period, however recent, sufficient to give title?

The way out of these difficulties was suggested by Olney. He proposed, first, that in determining the boundary line such weight and effect should be given to occupation as 'reason, justice, the rules of international law and the equities' of any particular case might seem to require.[2] This proposal satisfied Salisbury's Attorney General, Sir Richard Webster,[3] and it was embodied as a rule governing the arbitrators in the final Treaty of Arbitration. But it failed to satisfy Salisbury himself. The claims of Venezuela, he wrote, were 'so far reaching' that they impeached 'titles which have been unquestioned for many generations' and brought into dispute 'interests and rights' which could not 'properly be disposed of by an unrestricted arbitration'.[4] Olney admitted the objection. But could it not be agreed, he asked, that while arbitration should be unrestricted, there should be an instruction to the arbitrators that territory which had been in the 'exclusive, notorious, and actual use and occupation of either party for even two generations', or say for sixty years, should be held to belong to that party?[5] And this principle was also finally accepted, though the term of sixty years was shortened to fifty.

Such rules obviously disposed of Venezuela's extreme pretensions.[6] But, as Chamberlain pointed out, in the 'thirties and

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Cf. Salisbury to Pauncefote, 7 Feb. 1896, S.P., Private, America, A/140; 22 May, F.O. 80/371, 3 July, F.O. 80/373; to Chamberlain, 12 Aug., C.P., J.C. 5/67/54.

[1] Salisbury to Pauncefote, Tel., 3 March 1896, F.O. 80/369.

[2] Olney to Pauncefote, 12 June 1896, F.O. 80/372; *Foreign Relations, 1896*, pp. 249–52. *Cf.* his earlier letter to Bayard, 8 Feb. 1896, James, *op. cit.*, p. 235.

[3] Later Lord Alverstone. Memorandum by Richard E. Webster, 24 July 1896, S.P., Cabinet Papers, Box 4.

[4] Salisbury to Pauncefote, 3 July 1896, F.O. 80/373; *Foreign Relations, 1896*, pp. 252–3. *Cf.* Salisbury to Chamberlain, 12 Aug. 1896, C.P., J.C. 5/67/54.

[5] Olney to Pauncefote, 13 July 1896, F.O. 80/373; *Foreign Relations, 1896*, pp. 253–4. *Cf.* Smith, *op. cit.*, p. 138.

[6] Pauncefote to Salisbury, 15 July 1896, F.O. 80/373; Chamberlain to Salisbury, 21 Aug. 1896, S.P., Correspondence from Chamberlain.

'forties there had been substantially no settled districts 'away from the coast or in the immediate vicinity of the left bank of the Essequibo'.[1] And British claims did not rest on settlement alone. They rested also 'upon an effective occupation' by means 'of trading posts at strategic points, general administration and use of the territory between these points, and permanent connection with the native tribes covering the area so administered'.[2] In September Chamberlain himself paid a visit to the United States. Historians have generally regarded it as unimportant, and so, on the whole, it was. But it was now—and this is my third point—that, in interviews and correspondence with Olney, he put forward the view that the arbitrators must take into account not only long-continued occupation in the sense of settlement, but also long-continued political control of territory neither actually used nor occupied.[3]

Olney seems to have recognized—so Chamberlain's letters imply—that there was force in this proposal. And Chamberlain, on his return to England, pursued it. He wrote it, rather against the inclination of the Attorney General, into the draft which formed the basis of Pauncefote's final negotiations with Olney;[4] and the safeguard that exclusive political control of a district, as well as actual settlement of it, during a defined term, should be deemed sufficient to constitute title was incorporated into the heads of the proposed treaty of arbitration between Venezuela and Great Britain as agreed between Britain and the United States and signed by Olney and Pauncefote on 12 November 1896.

The heads of agreement laid down the terms and rules of arbitration and provided for an arbitral tribunal, two of whose members, representing Venezuela, were to be chosen by the Supreme Court of the United States, two by the judges of the supreme court of justice in Great Britain, and a fifth member, who was to preside, selected by these four jointly. Given the

[1] Chamberlain to Salisbury, 4 July 1896, S.P., Correspondence from Chamberlain.

[2] Wingfield to Sanderson, 5 Aug. 1896, F.O. 80/373.

[3] Chamberlain to Olney, 9 Sept. 1896; to Salisbury, 9, 17 Sept. 1896, S.P., Correspondence from Chamberlain. Tansill, *op. cit.*, p. 772, prints parts of the letter to Olney but without comment.

[4] Sanderson to Webster, 15 Oct.; Sanderson to Pauncefote, 16 Oct.; Webster to Sanderson, 19 Oct. 1896, F.O. 80/375.

rules which were to guide the arbitrators, Britain, as the event was to prove, had little to fear from arbitration, and Lord Salisbury, in a speech at the Guildhall on November 9, was able to refer to the controversy as though it were at an end.[1]

But though Britain and the United States had made the agreement, the parties to it were to be Britain and Venezuela, and it still remained for Venezuela to acquiesce. Nearly a year earlier Cleveland's special message to Congress had been greeted in Venezuela with enthusiasm. There had been processions, banquets, speeches. And these rejoicings were echoed elsewhere. It is true that President Montt of Chile, a country whose relations with the United States had long been unfriendly, bluntly remarked that 'the United States would make Venezuela pay dearly for any action taken on her account';[2] that ex-President Pellegrini of Argentina declared the Monroe Doctrine to be an anachronism;[3] and that the President of Brazil observed that he believed in South America 'for the South Americans, not for the Americans of the North'.[4] On the other hand, both Houses of Congress in Brazil passed resolutions of congratulation on the message; demonstrations of support took place in Colombia and Panama; and friendly comment appeared in Ecuador, Guatemala and Peru.[5]

There were no rejoicings of any kind in November and December 1896. On the contrary, the terms of the proposed treaty were read in Venezuela with disapprobation amounting to dismay.[6] The press and the politicians strongly criticized the fifty-year rule and the way in which the arbitrators were to be selected. President Crespo even referred to a sense of 'national humiliation'.[7] And it was as a concession to wounded feelings that the terms of the treaty were so far modified as to permit the President

[1] *The Times*, 10 Nov. 1896; James, *op. cit.*, p. 133.

[2] Kennedy (Valparaiso) to Salisbury, 26 Feb. 1896, F.O. 80/368.

[3] Perkins, *op cit.*, pp. 212–13.

[4] Phipps (Rio de Janeiro) to Salisbury, 9 March 1896, F.O. 128/223.

[5] Perkins, *op. cit.*, pp. 210–11; Consul Mallet (Panama) to Salisbury, 24 Dec. 1895, F.O. 80/364; W. S. Robertson, 'Hispanic American Appreciations of the Monroe Doctrine', *Hispanic American Historical Review*, iii (1920), 1–16.

[6] *Cf. Libro Amarillo, 1897*, p. xxxii; Young, *op. cit.*, pp. 276–7.

[7] Olney to Pauncefote, 11 Dec. 1896, S.P., A/139; Pauncefote to Salisbury, 28 Dec. 1896, F.O. 80/376.

himself to nominate an arbitrator.[1] Even so, it was distinctly understood that he should not name a Venezuelan, and his choice in fact fell on the Chief Justice of the United States.

This concession made, the treaty was signed in February 1897 and ratifications were exchanged in June. A distinguished panel of jurists was then set up, two American, two British, and one Russian. President Cleveland's Boundary Commission, meanwhile, had suspended its investigations as early as November 1896 (though it still had to produce a voluminous report), and its secretary, Mallet-Prevost, became one of the counsel retained by the Venezuelan Government. Pauncefote thought that the 'wretched Scruggs', as he called him,[2] would be another. But in this he was mistaken: Scruggs was rapidly falling from grace in Venezuela as well as in the United States. In October 1899, sitting at Paris, the Tribunal made its award. The line of boundary which it approved more or less followed the Schomburgk line. But Venezuela was given a small portion of disputed territory at either end, Punta Barima on the Orinoco on the one hand, and the extreme upper Cuyuni on the other. In return she was compelled to recognize the free navigation both of the Barima and of the Amacuro.[3]

For the most part, then, the British case was vindicated. But this was the least important result of the Anglo-Venezuelan dispute. Pauncefote could argue in November 1896 that Britain had 'accepted nothing but the good offices of the United States and the use of her judicial officers to carry out an arbitration with Venezuela which otherwise would have been impossible'.[4] But this was special pleading. Hitherto Great Britain had paid but little respect to the Monroe Doctrine. It could be viewed, Lord Clarendon had said in 1854, only 'as the dictum of the distinguished personage who delivered it', not 'as an international

[1] Pauncefote to Salisbury, 5 Jan. 1897, F.O. 80/379.

[2] Pauncefote to Salisbury, 22 Jan. 1897, S.P., A/139.

[3] The line was demarcated by a joint Anglo-Venezuelan commission between 1901 and 1905. The allegations made by Mallet-Prevost in a memorandum written in 1944 and published in 1949, after his death, that the Tribunal acted under political pressure and that the award was the result of a bargain between Britain and Russia, are effectively disposed of by C. J. Child, 'The Venezuela–British Guiana Boundary Arbitration of 1899', *American Journal of International Law*, 44, No. 4 (1950), pp. 682–93.

[4] Pauncefote to Salisbury, 13 Nov. 1896, S.P., A/139.

axiom which ought to regulate the conduct of European states';[1] and Clarendon's words were almost literally repeated by Lord Salisbury in his note of November 1895. A few days later Britain was presented with the alternative either of directly challenging the Monroe Doctrine or of accepting, in large measure, the interpretation of it then current in the United States. The disparity in military and naval power between the two countries was still enormous. But, for many reasons,[2] Britain did not choose to take up the challenge, and her refusal to do so meant that no effective opposition to the doctrine could be offered by any other power. The Monroe Doctrine, it could be argued, was not merely strengthened, possibly it was preserved, by the refusal of the greatest naval power in the world to oppose it to the point of war.

But that refusal entailed other consequences. In 1826 British trade, British capital, British diplomacy and British naval power had won for Great Britain a pre-eminent position in Latin America. In 1896 American diplomacy, American trade and American capital were beginning to win that pre-eminence for the United States, at least in the more northerly parts of the region. British trade and British capital were still the more important. But in the Venezuela crisis Britain recognized in effect that it was not Great Britain but the United States which occupied a special position in relation to Latin America. The years that followed saw the withdrawal of the British West Indies squadron and the rapid growth of the American navy. They saw, in 1901, by the second Hay-Pauncefote Treaty, the recognition by Britain of American supremacy in the Caribbean. They saw, finally, the full emergence of the United States as a world power and the complete and cordial acceptance by Britain of the principles of 1823 as currently interpreted in the United States. 'We welcome', said Mr Balfour, as Prime Minister, in February 1903, 'any increase of the influence of the United States of America upon the great Western Hemisphere', and in the debate on the King's speech at the opening of Parliament the government spokesman boldly asserted that 'the principle of the Monroe Doctrine has always

[1] 2 May 1854. W. R. Manning, ed., *Diplomatic Correspondence of the United States. Inter-American Affairs, 1831–1860* (12 vols., Washington, 1932–39), vii, 541.

[2] For Britain's increasing isolation in Europe and the world see Grenville and Young, *op. cit.*, pp. 170–1.

received the unwavering support of successive Ministries in this country'.[1] Politicians' memories are notoriously fallible. But, as it is related that the Duke of Wellington remarked to the person who addressed him as 'Mr Jones, I believe', 'Sir, if you believe that, you will believe anything'.

[1] *The Times*, 14 Feb. 1903; *Parliamentary Debates*, 4th Series, cxviii, 60 (John Gretton); Perkins, *op. cit.*, pp. 360–1.

ROYAL HISTORICAL SOCIETY

REPORT OF COUNCIL. SESSION 1965–6

THE Council of the Royal Historical Society have the honour of presenting the Annual Report to the Anniversary Meeting as follows:

Council have had under consideration for some years the question of the Society's future accommodation. The lease of the Society's present rooms expires in 1983, and it seemed to Council to be a matter of urgent importance to make suitable and secure provision for the future before the reversion of the lease ceased to be a substantial asset. The Officers, with the help of a committee appointed by Council, investigated a number of possible solutions. After careful consideration it appeared that the most satisfactory of these was provided by an offer of accommodation in University College, London. Subsequent negotiations with the College led to an agreement under which the Society's library and offices are to be accommodated as a separate unit for a period in the first instance of thirty years, the agreement thereafter continuing indefinitely subject to five years' notice of termination by either party. The principal charges in connection with the Society's accommodation will be met by the College. Members of the academic staff and research students of the College receive the right to consult books in the Society's library, while Fellows of the Society (who retain all their existing rights) receive reciprocal privileges in respect of the College library. This agreement was approved by Council at their meeting on 11 June, 1966. At the same meeting, approval was also given to an agreement for the disposal, on advantageous terms, of the Society's present lease. Both agreements are to take effect not later than 31 July, 1967.

Council are confident that these arrangements represent a highly satisfactory solution of an important and difficult problem and provide a sound long-term basis for the continuation and development of the Society's activities.

Council have also taken note of the fact that the centenary of the Society's foundation will occur in 1968. A Centenary

Committee has been preparing for Council's consideration an appropriate programme of publications and ceremonies to mark the occasion.

Substantial progress has been made with the compilation of the *Bibliographies of British History, 1789–1851* and *1851–1914*, referred to in the *Report* for 1959–60. But removal from London and the pressure of other work have constrained Professor A. J. Taylor to relinquish his post as joint editor of the first of these, and his place has been taken by Dr Lucy M. Brown of the London School of Economics and Political Science. Volumes I–IV (the last in two parts) of *Writings on British History, 1901–1933* are in the press, and Volume V (also in two parts) is approaching completion. As recorded in the *Report* for 1964–5 the Institute of Historical Research has assumed responsibility for the continuance of the series. It has appointed Mr M. R. Pickering to resume the compilation of the annual volumes, beginning with the year 1960; and Mr D. J. Munro is to take the first steps towards filling the gap between 1945 and 1960 by the preparation of volumes covering the years 1946–8.

The representation of the Society upon various bodies during the session was as follows: Professor Helen M. Cam and Professor H. H. Bellot on the Joint Anglo-American Committee exercising a general supervision over the production of the *Bibliographies of British History*; Professor C. N. L. Brooke, Professor Sir Goronwy Edwards, the Rev. Professor M. D. Knowles, Mr K. B. McFarlane and Professor Sir Frank Stenton on the Advisory Committee charged with supervising the new edition of Gross, *Sources and Literature of English History*; Professor G. W. S. Barrow, Dr P. Chaplais and Mr P. H. Sawyer on the Joint Committee of the Society and the British Academy established to prepare an edition of Anglo-Saxon Charters; Mr R. A. Skelton on the Committee of the H.M.S. *Endeavour* Trust; Mr P. Grierson on a committee to regulate British co-operation in the preparation of a new Repertory of Medieval Sources to replace Potthast's *Biblioteca Historica Medii Aevi*, and on a committee to promote the publication of photographic records of the more significant collections of English coins; Professor Sir Goronwy Edwards (with Mr T. F. Reddaway as his deputy) on the Advisory Council on the Export of Works of Art; Professor A. G. Dickens, Professor A. Goodwin, Professor

R. W. Southern on the British National Committee of the International Historical Congress; Professor Sir Goronwy Edwards on the Council of the British Records Association; Mr T. F. Reddaway on the Standing Conference for Local History; Professor V. H. Galbraith on the Advisory Committee appointed by the Minister of Town and Country Planning to supervise the listing of buildings of special architectural and historical interest, and Professor W. N. Medlicott on the Committee to advise the publishers of the Annual Register.

Professor W. N. Medlicott continues to represent the Society on the Court of the University of Exeter. Mr P. Grierson was appointed as the Society's representative at the Thirteenth International Congress of Byzantine Studies at Oxford.

Miss M. Flower has been appointed temporary part-time Archivist for the purpose of sorting and cataloguing the Society's records. An Extraordinary General Meeting held on 11 December, 1965, approved an amendment to the Society's By-laws instituting the office of Honorary Librarian.

Transactions, *Fifth Series*, Volume 16, and Dr A. B. Cunningham's edition of *The early correspondence of Richard Wood, 1830–1841* (Camden, Fourth Series, Volume 3), were issued during the session. The following volumes are now in the press: *Letters from the English Abbots to the Chapter at Cîteau, 1442–1521*, edited by Dr C. H. Talbot, which will form the fourth volume in Camden, Fourth Series, and *Anglo-Saxon Charters; An annotated List and Bibliography*, compiled by Mr P. H. Sawyer, which will be No. 8 in the *Guides and Handbooks Series*.

The following papers were read during the session 1965–6:

'Bentham and the French Revolution.' By Dr J. H. Burns. (9 October, 1965.)

'David II and the government of fourteenth-century Scotland.' By Mr Bruce Webster. (13 November, 1965.)

'Problems in the interpretation and revision of eighteenth-century Irish economic history.' By Dr L. M. Cullen. (8 January, 1966.)

'The religious factors in the Pilgrimage of Grace.' By Professor A. G. Dickens. (12 February, 1966.)

'St. Dominic and his first biographer.' By Professor C. N. L. Brooke. (12 March, 1966.)

'The mental world of Hernan Cortés.' By Dr J. H. Elliott. (14 May, 1966.)

The President, Professor R. A. Humphreys, delivered an

address at the Anniversary Meeting on 11 December, 1965, on 'Anglo-American rivalries and Spanish American emancipation'. The Alexander Prize was awarded to Mr M. T. Clanchy for his essay on 'The Franchise of Return of Writs'. The essay was read at the meeting on 11 June, 1966. A *proxime accessit* was awarded to Dr C. M. Andrew for his essay on 'Theophile Delcassé and the origins of the Entente Cordiale'. The annual garden party was held on 9 July, 1966.

At the Anniversary Meeting on 11 December, 1965, Sir Charles Clay and Professor E. F. Jacob were elected Honorary Vice-Presidents, Dr J. H. Burns was elected Honorary Secretary, and Mr A. T. Milne, Honorary Librarian. The Vice-Presidents retiring under By-law XVII were Professor D. Hay and Professor R. W. Southern. Mr P. Grierson and Mr K. B. McFarlane were elected to fill the vacancies. The members of Council retiring under By-law XVII were Dr G. R. C. Davis, Professor R. W. Greaves, Professor J. Hurstfield and Professor C. H. Wilson. Professor C. N. L. Brooke, Professor G. Donaldson, Professor A. Goodwin and Professor J. C. Holt were elected to fill the vacancies. Messrs. Beeby, Harmar & Co. were appointed auditors for the year 1965–6.

Council record with regret the deaths of 17 Fellows and 4 Corresponding Members. Among these, Council would mention specially Professor W. L. Burn, a member of Council from 1953–7 and a Vice-President since 1962, and Mr K. B. McFarlane, a member of Council from 1944–7, from 1948–52, and a Vice-President from 1953–7, from 1958–62, and since 1965. Their deaths, in the same week in July, were a heavy blow to Council. Council would also mention specially Professor R. Fawtier, a Corresponding Member since 1957; Professor H. Koht, a Corresponding Member since 1930; Professor P. Lehmann, a Corresponding Member since 1951; and Professor G. Luzatto, a Corresponding Member since 1951. 5 Fellows, 2 Associates and 2 Libraries have resigned. 32 Fellows and 13 Associates have been elected and 27 Subscribing Libraries have been admitted. 5 Associates have been elected to the Fellowship. The Membership of the Society on 30 September, 1966, was 817 Fellows, 34 Corresponding Members and 120 Associates (801, 28 and 114 respectively on 30 June, 1965). Of the Fellows, 171 were life members. The Subscribing Libraries numbered 595 (566 on

30 June, 1965). 20 Societies, British and foreign, exchanged their publications with the Society.

The Hon. Treasurer reports that the income of the Society for the year 1 July, 1965 to 30 June, 1966, exceeded the expenditure chargeable against it by £2,720. 16s. 5d. This surplus has been allocated to publications. The sum of £5,695. 16s. 5d. has thus been granted for publications, as against £3,849 3s. 7d. in the previous year, making, with the addition of the proceeds of sales, an allocation to the Publications Fund of £7,665. 3s. 0d., compared with £5,664. 14s. 6d.

ROYAL HISTORICAL SOCIETY

I.—Income and Expenditure Account for the Year ended 30 June 1966

Dr. — *Cr.*

1965 £	*Expenditure*	£	s.	d.	£	s.	d.
	Establishment Expenses						
180	Rent—96 Cheyne Walk	£180	0	0			
75	Rates	88	4	0			
63	Insurance, *less* Commission	60	9	4			
8	Repairs	4	8	0			
65	Wages	65	0	0			
20	Extra Service and Cleaning	22	16	1			
45	Lighting and Heating	12	11	4			
23	National Insurance	28	13	2			
14	Catering	15	0	0			
18	Anniversary Meeting Expenses	18	0	0			
13	Sundries	8	6	6			
524					503	8	5
	Secretarial and Administrative Expenses						
1,000	Secretary's Salary	1,000	0	0			
100	Superannuation	100	0	0			
271	Assistant Secretary's Salary	350	0	0			
51	National Insurance	63	14	2			
172	General Printing and Stationery (*less* Sales of Official Pamphlets)	301	19	11			
79	Accountancy and Audit	78	15	0			
88	Postages	105	4	11			
24	Telephone	24	7	6			
16	Sundries	17	8	3			
51	Additional Clerical Assistance	43	19	11			
16	Bank Charges	3	5	6			
43	Office Equipment	—	—	—			
27	Legal Fees	—	—	—			
—	Archivist's Fees and Expenses	35	12	6			
1,938					2,124	7	8
	Other Charges						
9	Alexander Prize Medal and Expenses	10	16	6			
1	Friends of National Libraries	1	1	0			
1	British Records Association	1	0	0			
16	British National Committee of the International Congress of Historical Sciences	15	15	0			
27					28	12	6
341	Library—Grant				200	0	0
	Publications						
125	Director's Honorarium	125	0	0			
23	Secretarial Expenses	—	—	—			
	Publications Account:						
2,780	Grant	2,975	0	0			
1,815	Proceeds from Sales (*per contra*)	1,969	6	7			
350	Writings on British History—Grant	350	0	0			
5,093					5,419	6	7
					8,275	15	2
1,069	Balance, being Excess of Income over Expenditure for the year transferred as a further grant for Publications				2,720	16	5
£8,092					£10,996	11	7

1965 £	*Income*	£	s.	d.	£	s.	d.
	Subscriptions						
	Received for 1966:						
167	Associates	£184	8	10			
1,771	Libraries	1,930	13	1			
2,544	Fellows	2,606	15	9			
300	Tax recovered from Subscriptions paid under Deeds of Covenant (1965–6)	331	16	0			
4,782					5,053	13	8
235	Arrears of Subscriptions received				226	15	11
	Interest and Dividends						
861	From General Investments	1,155	8	1			
893	From Sir George W. Prothero Bequest	903	13	6			
266	From Bank Deposits	242	3	5			
2,020					2,301	5	0
	Royalties						
136	From Sir George W. Prothero Bequest	88	17	2			
3	On Xerographic copies of Camden Volumes	—	—	—			
—	On Reprints of Camden Volumes	1,355	12	3			
139					1,444	9	5
1,816	Sales of Publications				1,969	6	7
1	Donation				1	1	0
£8,092					10,996	11	7

ROYAL HISTORICAL SOCIETY

II.—Balance Sheet 30 June 1966

1965 £		£ s. d.
	Funds	
34,136	Balance at 30th June 1966 as per Account III	39,514 13 5
337	Subscriptions received in advance	371 0 10
	Investment Reserve Account	
353	As at 30th June 1965	353 0 8
783	Sundry Creditors	725 0 0
£35,609		£40,963 14 11

1965 £			£ s. d.
	Investments		
15,693	General Account Market Value at 30th June 1966 £31,602 11 2		17,291 16 9
14,428	Sir George W. Prothero Bequest Market Value at 30th June 1966 £15,326 11 9		14,428 0 1
	Current Assets		
	Balances at Bank:		
100	Current Accounts	804 15 11	
2,285	Deposit Accounts	5,201 9 11	
3,101	London Trustee Savings Bank	3,226 4 7	
2	Cash in Hand	11 7 8	
5,488			9,243 18 1
£35,609			£40,963 14 11

Note: The Society also owns the Library Furniture and Office Equipment at 96 Cheyne Walk, Chelsea, and a Stock of its own publications, the cost of which has been written off to Income and Expenditure Account.

We have examined the foregoing Income and Expenditure Account and Balance Sheet with the books and vouchers of the Society.

We have verified the Investments appearing in the Balance Sheet.

In our opinion, the above Balance Sheet and annexed Income and Expenditure Account are properly drawn up so as to exhibit a true and fair view of the state of the affairs of the Society, according to the best of our information and explanations given to us, and as shown by the books of the Society.

Finsbury Court, Finsbury Pavement, London, E.C.2.
1st August, 1966

BEEBY, HARMAR & CO.,
Chartered Accountants, Auditors.

ROYAL HISTORICAL SOCIETY

III.—Statement of Funds 30 June 1966

	Balance at the beginning of the year. £ s. d.		Grants and Additions during the year. £ s. d.		Expenditure and Withdrawals during the year. £ s. d.		Balance at the end of the year. £ s. d.
The Sir George W. Prothero Bequest	14,377 8 10		—		—		£14,377 8 10
Life Subscription Fund	2,552 7 11		—	(a)	15 15 0		2,536 12 11
Contingencies Reserve Fund	1,309 12 11	(a)	15 15 0		—		1,325 7 11
Library Fund	10 1 8	(b)	200 0 0		187 9 7		22 12 1
Publications Fund	9,327 16 0	(c)	8,165 3 0	(c)	2,629 1 8		14,863 17 4
'Writings on British History' Fund	1,599 1 2	(d)	1,350 0 0	(e)	1,520 0 0		1,429 1 2
General Fund	4,959 13 2		—		—		4,959 13 2
	£34,136 1 8		£9,730 18 0		4,352 6 3		£39,514 13 5

REFERENCES

(a) Proportion of Life Subscriptions transferred.
(b) Grant for year.
(c) See Account IV.
(d) Grant for the year, £350, plus donation by Prof. H. Hale Bellot, £1,000—total £1,350.
(e) Subsidy for publication of 'Writings on British History 1901/33': Vol. I, £602 10 0; Vol. II, £380; Vol. III, £537 10 0—total £1,520.

ROYAL HISTORICAL SOCIETY

IV.—Publications Account for the Year ended 30 June 1966

Dr.

		£	s.	d.
Payments made during the Year:				
Cost of publishing:				
Transactions—Fifth Series				
Vol. 15 Balance of Cost	91 12 4			
Offprints	43 9 2			
		135	1	6
Vol. 16 (Provisional Cost)		1,164	12	6
Camden—Fourth Series				
Vol. II: Balance of Cost		146	6	2
Vol. III: (Part Cost)		922	0	10
Warehousing of Stock		86	5	5
Packing Cartons		36	4	1
Sundry Postages, Packing Expenses, etc		138	11	2
		2,629	1	8
Balance at 30th June 1966 carried forward (available for future Publications)		14,863	17	4
		£17,492	19	0

Cr.

		£	s.	d.
Balance of Allocations at 30th June, 1965 brought forward		9,327	16	0
Allocation for Publications 1965/66:				
Grants	£5,695 16 5			
Proceeds of Sales (as per Income and Expenditure Account)	1,969 6 7			
		7,665	3	0
Contribution received towards cost of publishing Camden Fourth Series—Volume III		500	0	0
		£17,492	19	0

THE DAVID BERRY TRUST

Receipts and Payments Account for the Year ended 30 June 1966

Receipts				£	s.	d.
BALANCE IN HAND—30TH JUNE, 1965:						
Cash at Bank—Current Account	£114	16	4			
Post Office Savings Bank	37	15	2			
Cash in Hand		11	7			
304 Shares Charities Official Investment Fund	300	0	0			
				453	3	1
DIVIDENDS ON INVESTMENTS per Charity Commissioners				49	8	10
POST OFFICE SAVINGS BANK Interest					18	6
				£503	10	5

Payments				£	s.	d.
SUNDRY EXPENSES					4	6
BALANCE IN HAND—30TH JUNE, 1966:						
Cash at Bank: Current Account	£164	5	2			
Post Office Savings Bank	38	13	8			
Cash in Hand		7	1			
304 Shares Charities Official Investment Fund (market value at 30th June, 1966, £286 6*s.* 2*d.*)	300	0	0			
				503	5	11
				£503	10	5

We have examined the above Account with the books and vouchers of the Trust and find it to be in accordance therewith.

FINSBURY COURT, FINSBURY PAVEMENT, LONDON, E.C.2.
1st August, 1966.

BEEBY, HARMAR & CO.,
Chartered Accountants, Auditors.

The late David Berry, by his Will dated the 23rd day of April 1926, left £1,000 to provide in every three years a gold medal and prize money for the best essay on the Earl of Bothwell or, at the discretion of the Trustees, on Scottish History of the James Stuarts I to VI, in memory of his father, the late Rev. David Berry.

The Trust is now regulated by a scheme sanctioned by the Chancery Division of the High Court of Justice dated 23rd day of January 1930 and made in an Action 1927 A. 1233 David Anderson Berry deceased, Hunter and another v. Robertson and another.

This Society is now the Trustee, and the Investment held on Capital Accounts consists of 634 Charities Official Investment Fund shares.

The Trustee will in every second year of the three-year period advertise in *The Times* inviting essays.

ALEXANDER PRIZE

The Alexander Prize was established in 1897 by L. C. Alexander, F.R.Hist.S. It consists of a silver medal awarded annually for an essay upon some historical subject. Candidates may select their own subject provided such subject has been previously submitted to and approved by the Literary Director. The essay must be a genuine work of original research, not hitherto published, and one which has not been awarded any other prize. It must not exceed 6,000 words in length and must be sent in on or before 1 January 1967. The detailed regulations should be obtained in advance from the Secretary.

LIST OF ALEXANDER PRIZE ESSAYISTS (1898–1966)[1]

1898. F. Hermia Durham ('The relations of the Crown to trade under James I').
1899. W. F. Lord, B.A. ('The development of political parties in the reign of Queen Anne').
1901. Laura M. Roberts ('The Peace of Lunéville').
1902. V. B. Redstone ('The social condition of England during the Wars of the Roses').
1903. Rose Graham ('The intellectual influence of English monasticism between the tenth and twelfth centuries').
1904. Enid W. G. Routh ('The balance of power in the seventeenth century').
1905. W. A. P. Mason, M.A. ('The beginnings of the Cistercian Order').
1906. Rachel R. Reid, M.A. ('The Rebellion of the Earls, 1569').
1908. Kate Hotblack ('The Peace of Paris, 1763').
1909. Nellie Nield, M.A. ('The social and economic condition of the unfree classes in England in the twelfth and thirteenth centuries').
1912. H. G. Richardson ('The parish clergy of the thirteenth and fourteenth centuries').
1917. Isobel D. Thornley, B.A. ('The treason legislation of 1531–1534').
1918. T. F. T. Plucknett, B.A. ('The place of the Council in the fifteenth century').
1919. Edna F. White, M.A. ('The jurisdiction of the Privy Council under the Tudors').
1920. J. E. Neale, M.A. ('The Commons Journals of the Tudor Period').

[1] No award was made in 1900, 1907, 1910, 1911, 1913, 1914, 1921, 1946, 1948, 1956. The prize Essays for 1909 and 1919 were not published in the *Transactions*. No Essays were submitted in 1915, 1916 and 1943.

1922. Eveline C. Martin ('The English establishments on the Gold Coast in the second half of the eighteenth century').
1923. E. W. Hensman, M.A. ('The Civil War of 1648 in the east midlands').
1924. Grace Stretton, B.A. ('Some aspects of mediæval travel').
1925. F. A. Mace, M.A. ('Devonshire ports in the fourteenth and fifteenth centuries').
1926. Marian J. Tooley, M.A. ('The authorship of the *Defensor Pacis*').
1927. W. A. Pantin, B.A. ('Chapters of the English Black Monks, 1215–1540').
1928. Gladys A. Thornton, B.A., Ph.D. ('A study in the history of Clare, Suffolk, with special reference to its development as a borough').
1929. F. S. Rodkey, A.M., Ph.D. ('Lord Palmerston's policy for the rejuvenation of Turkey, 1839–47').
1930. A. A. Ettinger, D.Phil. ('The proposed Anglo-Franco-American Treaty of 1852 to guarantee Cuba to Spain').
1931. Kathleen A. Walpole, M.A. ('The humanitarian movement of the early nineteenth century to remedy abuses on emigrant vessels to America').
1932. Dorothy M. Brodie, B.A. ('Edmund Dudley, minister of Henry VII').
1933. R. W. Southern, B.A. ('Ranulf Flambard and early Anglo-Norman administration').
1934. S. B. Chrimes, M.A., Ph.D. ('Sir John Fortescue and his theory of dominion').
1935. S. T. Bindoff, M.A. ('The unreformed diplomatic service, 1812–60').
1936. Rosamond J. Mitchell, M.A., B.Litt. ('English students at Padua, 1460–1475').
1937. C. H. Philips, B.A. ('The East India Company "Interest", and the English Government, 1783–4').
1938. H. E. I. Phillips, B.A. ('The last years of the Court of Star Chamber, 1630–41').
1939. Hilda P. Grieve, B.A. ('The deprived married clergy in Essex, 1553–61').
1940. R. Somerville, M.A. ('The Duchy of Lancaster Council and Court of Duchy Chamber').
1941. R. A. L. Smith, M.A., Ph.D. ('The *Regimen Scaccarii* in English monasteries').
1942. F. L. Carsten, D.Phil. ('Medieval democracy in the Brandenburg towns and its defeat in the fifteenth century').
1944. Rev. E. W. Kemp, B.D. ('Pope Alexander III and the canonization of saints').
1945. Helen Suggett, B.Litt. ('The use of French in England in the later middle ages').
1947. June Milne, B.A. ('The diplomacy of Dr John Robinson at the court of Charles XII of Sweden, 1697–1709').
1949. Ethel Drus, M.A. ('The attitude of the Colonial Office to the annexation of Fiji').
1950. Doreen J. Milne, M.A., Ph.D. ('The results of the Rye House Plot, and their influence upon the Revolution of 1688').

1951. K. G. Davies, B.A. ('The origins of the commission system in the West India trade').
1952. G. W. S. Barrow, B.Litt. ('Scottish rulers and the religious orders, 1070–1153').
1953. W. E. Minchinton, B.Sc.(Econ.) ('Bristol—metropolis of the west in the eighteenth century').
1954. Rev. L. Boyle, O.P. ('The *Oculus Sacerdotis* and some other works of William of Pagula').
1955. G. F. E. Rudé, M.A., Ph.D. ('The Gordon riots: a study of the rioters and their victims').
1957. R. F. Hunnisett, M.A., D.Phil. ('The origins of the office of Coroner').
1958. Thomas G. Barnes, A.B., D.Phil. ('County politics and a puritan *cause célèbre*: Somerset churchales, 1633').
1959. Alan Harding, B.Litt. ('The origins and early history of the Keeper of the Peace').
1960. Gwyn A. Williams, M.A., Ph.D. ('London and Edward I').
1961. M. H. Keen, B.A. ('Treason trials under the law of arms').
1962. G. W. Monger, M.A., Ph.D. ('The end of isolation: Britain, Germany and Japan, 1900–1902').
1963. J. S. Moore, B.A. ('The Domesday teamland: a reconsideration').
1964. M. Kelly, Ph.D. ('The submission of the clergy').
1965. J. J. N. Palmer, B.Litt. ('Anglo-French negotiations, 1390–1396').
1966. M. T. Clanchy, M.A., Ph.D. ('The Franchise of Return of Writs').

DAVID BERRY PRIZE

The David Berry Prize was established in 1929 by David Anderson-Berry in memory of his father, the Reverend David Berry. It consists of a gold medal and money prize awarded every three years for Scottish history. Candidates may select any subject dealing with Scottish history within the reigns of James I to James VI inclusive, provided such subject has been previously submitted to and approved by the Council of the Royal Historical Society. The essay must be a genuine work of original research not hitherto published, and one which has not been awarded any other prize. There is no limit to the length of the essay. It must be sent in on or before 31 October 1967.

LIST OF DAVID BERRY PRIZE ESSAYISTS (1937–1964)[1]

1937. G. Donaldson, M.A. ('The polity of the Scottish Reformed Church *c.* 1560–1580, and the rise of the Presbyterian movement').
1943. Rev. Prof. A. F. Scott Pearson, D.Th., D.Litt. ('Anglo-Scottish religious relations, 1400–1600').
1949. T. Bedford Franklin, M.A., F.R.S.E. ('Monastic agriculture in Scotland, 1440–1600').
1955. W. A. McNeill, M.A. (' "Estaytt" of the king's rents and pensions, 1621').
1958. Prof. Maurice Lee, Ph.D. ('Maitland of Thirlestane and the foundation of the Stewart despotism in Scotland').
1964. M. H. Merriman ('Scottish collaborators with England during the Anglo-Scottish war, 1543–1550').

[1] No Essays were submitted in 1940. No award was made in 1946, 1952 and 1961.

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(INCORPORATED BY ROYAL CHARTER)

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LIST OF FELLOWS OF THE ROYAL HISTORICAL SOCIETY

(CORRECTED TO 31 DECEMBER 1966)

*Names of Officers and Honorary Vice-Presidents are printed in capitals. Those marked * have compounded for their annual subscriptions.*

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*Addleshaw, The Very Rev. Canon G. W. O., M.A., B.D., F.S.A., The Deanery, Chester.
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*Allen, Rev. R., M.A., Ph.D., Mellifont, Osborne Park, Belfast.
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Barnes, T. G., A.B., D.Phil., University of California, Berkeley 4, Calif., U.S.A.
Barnes, Professor Viola F., M.A., Ph.D., LL.D., Mount Holyoke College, South Hadley, Mass., U.S.A.
Barratt, Miss D. M., D.Phil, 12 College Flats, College Lane, Littlemore, Oxford.
BARROW, Professor G. W. S., M.A., B.Litt. (*Literary Director*), University of Newcastle, Newcastle upon Tyne, 1.
Bartlett, C. J., Ph.D., 5 Strathspey Place, West Ferry, Dundee.
Batho, G. R., M.A., The University, Sheffield, 10.
Baxter, Professor S. B., Ph.D., 608 Morgan Creek Road, Chapel Hill, N.C., U.S.A.
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Mainz, Institut für Europaische Geschichte, Alte Universitätsstrasse 17.
Marburg, Universitäts-Bibliothek, Friedrichsplatz 15.
Westdeutsche Bibliothek, Universitätsstrasse 25.
München, Bayerische Staats-Bibliothek.
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Monumenta Germaniae Historica, Meiserstrasse 10.
Münster (Westf.), Universitäts-Bibliothek, Bispinghof 24–25.
Saarbruecken (Saarland), Universitaets-Bibliothek, Universitaet des Saarlandes.
Stuttgart, Würtembergische Landesbibliothek, Urbanstrasse 19, Stuttgart-O.
Würzburg, Universitätsbibliothek, Domerschulgasse 16.

HOLLAND

Amsterdam, Universiteits Bibliotheek.
The Hague, Royal Library, Lange Voorhout 34.
Leiden, Bibliotheek der Rijksuniversiteit, Rapenburg 70–74.

HUNGARY

Budapest, Egyetemi Könyvtár, Postafiók 334, Budapest 4.

REPUBLIC OF IRELAND

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Dublin, King's Inns Library.
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ISRAEL

Haifa, Haifa College, P.O. Box 5345.
Jerusalem, Jewish National and University Library, P.O. Box 503, Jerusalem, Palestine.

ITALY

Milan, Fondazione Italiana per la Storia Amministrativa, Via Cusani 5.
Università Cattolica del Sacro Cuore, Piazza S. Ambrogio, 9.
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Rome, Biblioteca della Camera dei Deputati, Piazza Montecitorio.
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Turin, Istituto di Lingua e Letteratura Inglese, University of Turin.
Vatican City, Biblioteca Apostolica Vaticana.

JAPAN

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Lublin, Katolicki Uniwersytet, Szopena, 27.

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Uppsala, Universitetsbiblioteket.

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University of Pennsylvania.
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Société de l'École Nationale des Chartes, 19 rue de la Sorbonne, Paris.
Société de l'Histoire de France, 60 rue des Francs-Bourgeois, Paris.

GERMANY

Hansischer Geschichtsverein, St Annen-Strasse 2, Lübeck.

HOLLAND

Bureau van de Rijks Commissie voor Vaderlandse Geschiedenis, 7 Bleyenburg, The Hague.
Historisch Genootschap, Utrecht, c/o Bibliothèque de l'Université.

PAKISTAN

Pakistan Historical Society, 30 New Karachi Housing Society, Karachi, 5.

POLAND

Société des Sciences et des Lettres de Varsovie, L'Université, Warsaw.

SWEDEN

Historisk Tidskrift, Storgatan 41, Stockholm.

SWITZERLAND

Allgemeine Geschichtsforschende Gesellschaft der Schweiz, Stadt Bibliothek, Berne.

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MISCELLANEOUS PUBLICATIONS

†Domesday commemoration. Notes on the manuscripts, etc., exhibited at the Public Record Office. 1886.

* All volumes of the Old series, vols. 1–11, 18, 19 of the New series, vols. 9 and 10 of the Third series, vols. 1, 2, 4 of the Fourth series and vols. 1, 2, 6 of the Fifth series are out of print. New series vol. 15, Third series vol. 5, Fourth series vol. 3 and Fifth series vols. 5 and 7 are only supplied by special leave of the Council. Others are supplied at 15s. each volume. The earliest volumes of the *Transactions* were issued to Fellows in unbound parts. Any discrepancies in the lettering of bound volumes during these periods are doubtless due to this.

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Domesday studies. 2 vols. Edited by P. E. Dove. 1886. 32s. (†Vol. 1.)

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†Walter of Henley's Husbandry, together with an anonymous Husbandry, Seneschaucie, and Robert Grosseteste's Rules. Edited by Elizabeth Lamond and the Rev. W. Cunningham. 1890.

Proceedings of the Gibbon commemoration 1794–1894. 1895. 6s. 6d.

†The Domesday of Inclosures, 1517–18. Edited by I. S. Leadam. 2 vols. 1897.

A bibliography of the historical works of Mandell Creighton, William Stubbs, S. R. Gardiner and John, Lord Acton. Edited by W. A. Shaw. 1903. (*unbound*) 6s. 6d.

German opinion and German policy before the War. By G. W. Prothero. 1916. 5s. 6d.

†Magna Carta commemoration essays. With preface by the Right Hon. Viscount Bryce. Edited by H. E. Malden. 1917.

*A repertory of British archives. Part I. England. Compiled by Hubert Hall. 1920. 10s. 6d.

†A list and index of the Transactions and publications of the Royal Historical Society (1869–1924) and of the publications of the Camden Society (1840–1897). Edited by Hubert Hall. 1925.

The *Domesday monachorum* of Christ Church, Canterbury. 1944. 30s.

In preparation

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Bibliography of British history: Tudor Period, 1485–1603. Edited by Conyers Read. 1st ed. 1933; 2nd ed. 1959. Oxford Univ. Press, 63s. (Special price, 45s.)

†Bibliography of British history: Stuart period, 1603–1714. Edited by Godfrey Davies. 1928. Oxford Univ. Press.

†Bibliography of British history: 1714–1789. Edited by S. M. Pargellis and D. J. Medley. 1951. Oxford Univ. Press.

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ANNUAL BIBLIOGRAPHIES

Writings on British history, 1901–1933 (7 vols.) *in the press.*

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†Writings on British history, 1939. Compiled by A. T. Milne. 1953. London, Jonathan Cape.
Writings on British history, 1940–1945. 2 vols. Compiled by A. T. Milne. 1960. London, Jonathan Cape, 126s. (Special price, 110s.)

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